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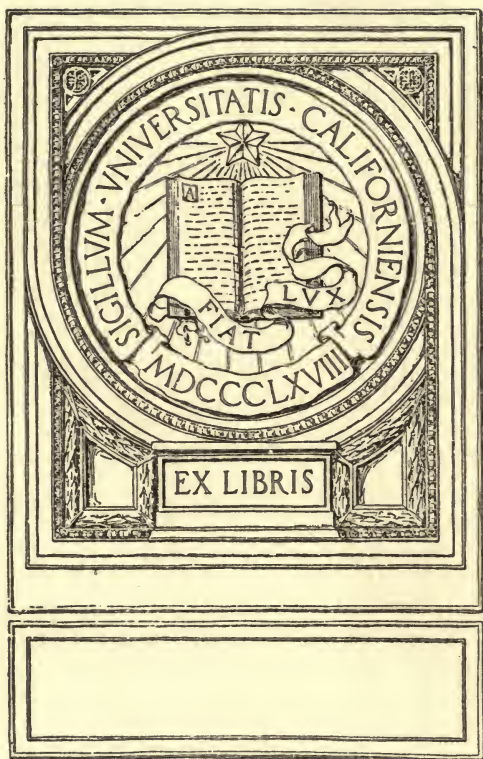
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GENERAL SCHOOL LAW

OF THE

STATE OF NEW YORK.

1878.





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GENERAL SCHOOL LAWS

OF THE

STATE OF NEW YORK.

PREPARED BY THE

SUPERINTENDENT OF PUBLIC INSTRUCTION

PURSUANT TO CHAPTER 252, LAWS OF 1878.

ALBANY.

WEED, PARSONS AND COMPANY, PRINTERS.

1878.

LB 2529
N 73
1878

SCHOOL LAW.

CHAP. 555.

AN ACT to revise and consolidate the General Acts
relating to Public Instruction.

Passed May 2, 1864; three-fifths being present.

*The People of the State of New York, represented in
Senate and Assembly, do enact as follows:*

TITLE I.

OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION,
HIS ELECTION AND GENERAL POWERS AND DUTIES.

SECTION 1. The office of state superintendent of public instruction is continued, and the term of said office shall be three years, commencing on a day after an election thereto, and continuing until a successor shall have been duly elected. Such superintendent shall be elected by joint ballot of the senate and assembly, on the first Tuesday of April, one thousand eight hundred and sixty-five, and on the first Tuesday of April next after the occurrence of any vacancy in the office.

State super-
intendent:
his election
and term of
office.

Deputy
superin-
tendent.

§ 2. He shall appoint a deputy ; and, in case of a vacancy in the office of superintendent, the deputy may perform all the duties of the office until the day after the day hereinbefore fixed for an election by the senate and assembly. In case the office of both superintendent and deputy shall be vacant, the governor shall appoint some person to fill the office, until the superintendent shall be elected and assume it.

Vacancy.

Office in
state hall.

§ 3. The superintendent's office shall continue to be in the state hall, and maintained at the expense of the state.

Salary.

*§ 4. His salary shall be five thousand dollars a year, payable quarterly, by the treasurer, on the warrant of the comptroller.

Clerk hire.

†§ 5. He may appoint as many clerks as he may deem necessary, but the compensation of such clerks shall not exceed in the aggregate the sum of nine thousand dollars in any one year, and shall be payable monthly by the treasurer, on the warrant of the comptroller, and the certificate of the superintendent.

Seal.

§ 6. The seal of the superintendent, of which a description and impression are now on file in the office of the secretary of state, shall continue to be his official seal, and when necessary may be renewed from time to time. Copies of all papers deposited or filed in the superintendent's office, and of all acts, orders and decisions made by him, and of the drafts or machine copies of his official letters, may be authenticated under the said seal, and when so authenticated, shall be evidence equally with and in like manner as the originals.

Superin-
tendent's
ex-officio
duties.

‡§ 7. The superintendent shall be ex-officio a trustee of Cornell University and of the New York State Asylum for Idiots, and a Regent of the University of the State of New York. He shall also have general supervision over the State normal schools at Brockport, Buffalo, Cortland, Fredonia, Geneseo, Oswego and Potsdam, and over any other State normal schools which may hereafter be established ; and he shall provide for the education of

* As amended by sec. 1, chap. 567, Laws of 1875.

† As amended by sec. 2, chap. 567, Laws of 1875.

‡ As amended by sec. 3, chap. 567, Laws of 1875.

the Indian children of the state, as required by chapter seventy-one of the laws of eighteen hundred and fifty-six.

§ 8. The institution for the instruction of the deaf and dumb, the New York institution for the blind, and all other similar institutions, incorporated, or that may be hereafter incorporated, shall be subject to the visitation of the superintendent of public instruction, and it shall be his duty :

Institution
for deaf
and dumb,
blind, etc.

1. To inquire, from time to time, into the expenditures of each institution, and the systems of instruction pursued therein, respectively.

2. To visit and inspect the schools belonging thereto, and the lodgings and accommodations of the pupils.

3. To ascertain, by a comparison with other similar institutions, whether any improvements in instruction and discipline can be made ; and for that purpose to appoint, from time to time, suitable persons to visit the schools.

4. To suggest to the directors of such institution and to the legislature such improvements as he shall judge expedient.

5. To make an annual report to the legislature on all the matters before enumerated, and particularly as to the condition of the schools, the improvement of the pupils, and their treatment in respect to board and lodging.

Superin-
tendent to
report an-
nually.

*§ 9. All deaf and dumb persons resident in this state, between the ages of twelve and twenty-five years, whose parent or parents, or, if an orphan, whose nearest friend shall have been resident in this state for three years immediately preceding the application, shall be eligible to appointment as state pupils, in one of the deaf and dumb institutions of this state, authorized by law to receive such pupils ; and all blind persons of suitable age and similar qualifications shall be eligible to appointment to the institutions for the blind in the city of New York, or in the village of Batavia, as follows : All such as are residents of the counties of New York, Kings, Queens, Suffolk and Richmond, shall be sent to the

Terms of
admission.

institution for the blind in the city of New York ; those who reside in other counties of the state shall be sent to the institution for the blind in the village of Batavia. All such appointments with the exception of those to the institution for the blind in the village of Batavia shall be made by the superintendent of public instruction upon application, and in those cases in which, in his opinion, the parents or guardians of the applicants are able to bear a portion of the expense, he may impose conditions whereby some proportionate share of the expense of educating and clothing such pupils shall be paid by their parents, guardians or friends, in such manner and at such times as the superintendent shall designate, which conditions he may modify from time to time, if he shall deem it expedient to do so.

State pupils; accommodation, compensation, etc.

§ 10. Each pupil so received into either of the institutions aforesaid shall be provided with board, lodging and tuition ; and the directors of the institution shall receive for each pupil so provided for, the sum of

dollars per annum, in quarterly payments, to be paid by the treasurer of the state, on the warrant of the comptroller, to the treasurer of said institution, on his presenting a bill showing the actual time and number of such pupils attending the institution, and which bill shall be signed by the president and secretary of the institution, and verified by their oaths. The regular term of instruction for such pupils shall be five years ; but the superintendent of public instruction may, in his discretion, extend the term of any pupil for a period not exceeding three years. The pupils provided for in this and the preceding section of this title shall be designated state pupils ; and all the existing provisions of law applicable to state pupils now in said institutions shall apply to pupils herein provided for.

Term of instruction.

§ 11. The superintendent of public instruction may make such regulations and give such directions to parents and guardians, in relation to the admission of pupils into either of the above named institutions, as will prevent pupils entering the same at irregular periods.

§ 12. The superintendent may, in his discretion, appoint persons to visit and examine all or any of the common schools in the county wherein such persons reside, and to report to him all such matters respecting their condition and management, and the means of improving them, as he shall prescribe; but no allowance or compensation shall be made to such visitors for their services or expenses.

School
visitor.

§ 13. So often as he can, consistently with his other duties, he shall visit such of the common schools of the state as he shall see fit, and inquire into their course of instruction, management and discipline, and advise and encourage the pupils, teachers and officers thereof.

Superin-
tendent to
visit the
common
schools.

§ 14. He shall submit to the legislature an annual report containing:

Annual
report.

1. A statement of the condition of the common schools of the state, and of all other schools and institutions under his supervision, and subject to his visitation as superintendent.

2. Estimates and accounts of expenditures of the school moneys, and a statement of the apportionment of school moneys made by him.

3. All such matters relating to his office, and all such plans and suggestions for the improvement of the schools and the advancement of public instruction in the state, as he shall deem expedient.

*§ 15. He may grant under his hand and seal of office a certificate of qualification to teach, and may revoke the same. While unrevoked, such certificate shall be conclusive evidence that the person to whom it was granted was qualified by moral character, learning and ability, to teach any common school in the state. Such certificate may be granted to him only upon examination. He shall determine the manner in which such examination shall be conducted, and may designate proper persons to conduct the same, and report the result to him. He may also appoint times and places for holding such examinations, at least once in each year, and cause due notice thereof to be given. He may also issue temporary licenses to teach, limited

State cer-
tificate.

to any school commissioner district or school district, and for a period not exceeding six months, whenever, in his judgment, it may be necessary or expedient for him to do so.

May annul
certifi-
cates.

§ 16. Upon cause shown to his satisfaction, he may annul any certificate of qualification granted to a teacher by a school commissioner, or declare any diploma issued by the state normal school ineffective and null as a qualification to teach a common school within this state, and he may reconsider and reverse his action in any such matter.

Lists of
persons
holding
state cer-
tificates
and nor-
mal school
diplomas.

§ 17. He shall prepare and keep in his office alphabetical lists of all persons who have received or shall receive, certificates of qualification from himself, or diplomas of the state normal school, with the dates thereof, and shall note thereon all annulments and reversals of such certificates and diplomas, with the date and causes thereof, together with such other particulars as he may deem expedient.

Superin-
tendent
may re-
move
school
commis-
sioners.

§ 18. Whenever it shall be proven, to his satisfaction, that any school commissioner, or other school officer, has been guilty of any willful violation or neglect of duty under this act, or any other act pertaining to common schools, or of willfully disobeying any decision, order or regulation of the superintendent, the superintendent may, by an order under his hand and seal, which order shall be recorded in his office, remove such school commissioner or other school officer from his office.

Shall pre-
pare regis-
ters,
blanks,
etc.

§ 19. He shall prepare suitable registers, blanks, forms and regulations for making all reports and conducting all necessary business under this act, and shall cause the same, with such information and instructions as he shall deem conducive to the proper organization and government of the common schools and the due execution of their duties by school officers, to be transmitted to the officers and persons intrusted with the execution of the same.

TITLE II.

OF THE SCHOOL COMMISSIONERS, THEIR ELECTION,
POWERS AND DUTIES.

SECTION 1. The office of school commissioner is continued, and the present incumbents shall continue in office in their respective districts, for the residue of the terms for which they were elected or appointed.

School
commis-
sioners.

§ 2. The districts as organized under existing laws and as recognized in the election of school commissioners at the annual election in eighteen hundred and sixty-three, shall continue to be held and regarded as the school commissioner districts in this state, except as the same shall be altered or modified by the legislature.

School
commis-
sioners dis-
tricts.

*§ 3. The school commissioner for each school commissioner district shall be elected by the electors thereof, by separate ballot, at the general election in the year one thousand eight hundred and sixty-six, and triennially thereafter, and the ballots shall be indorsed "school commissioner." The laws regulating the election of and canvassing the votes for county officers shall apply to such elections. And it shall further be the duty of county clerks, and they are hereby required, as soon as they shall have official notice of the election or appointment of a school commissioner, for any district in their county, to forward to the superintendent of public instruction a duplicate certificate of such election or appointment attested by their signature and the seal of the county.

How
elected

County
clerk to
certify to
superin-
tendent.

§ 4. The term of office of such commissioner shall commence on the first day of January next after his election, and shall be for three years, and until his successor qualifies. Every person elected to the office, or appointed to fill a vacancy, must take the oath of office prescribed by the constitution, before the county clerk, or a judge of a court of record,

Term of
office

Oath of
office.

*As amended by sec. 1, chap 406, Laws of 1867.

and file it with the county clerk, within ten days after the commencement of the term, or after notice of his appointment; and if he omit so to do, the office shall be deemed vacant.

Commis-
sioner may
resign.

§ 5. A commissioner may, at any time, vacate his office, by filing his resignation with the county clerk. His removal from the county, or his acceptance of the office of supervisor, town-clerk or trustee of a school district, shall vacate his office.

How va-
cancy in
office of
school
commis-
sioner
filled.

*§ 6. The county clerk, so soon as he has official or other notice of the existence of a vacancy in the office of commissioner, shall give notice thereof to the county judge, or, if that office be vacant, to the superintendent of public instruction. In case of a vacancy, the county judge, or, if there be no county judge, then the superintendent, shall appoint a commissioner, who shall hold his office until the first of January succeeding the next general election, and until his successor, who shall be chosen at such general election, shall have qualified. A person elected to fill a vacancy shall hold the office only for the unexpired term.

Salary of
school
commis-
sioner
\$800.

†§ 7. Every school commissioner shall receive an annual salary of eight hundred dollars, payable quarterly, by the treasurer, on the warrant of the comptroller and the certificate of the superintendent of public instruction, out of the income of the United States deposit fund appropriated to this purpose, or to the support of common schools.

‡§ 8. Whenever a majority of the supervisors from all the towns composing a school commissioner district shall adopt a resolution to increase the salary of their school commissioner, beyond the eight hundred dollars payable to him from the United States deposit fund, it shall be the duty of the board of supervisors of the county to give effect to such resolution, and they shall assess the increase stated therein upon the towns composing such commissioner district, ratably, according to the corrected valuations of the real and personal estate of such towns.

*As amended by sec. 1, chap. 647, Laws of 1865.

†As amended by sec. 1, chap. 84, Laws of 1867.

‡As amended by sec. 6, chap. 567, Laws of 1875.

*§ 9. The board of supervisors shall annually audit and allow to each commissioner within the county the fixed sum of two hundred dollars for his expenses, and shall assess and levy that amount annually, by tax upon the towns composing his district.

Commissioner's expenses \$200.

§ 10. Whenever the superintendent of public instruction is satisfied that a school commissioner has persistently neglected to perform his duties, he may withhold his order for the payment of the whole or any part of such commissioner's salary as it shall become due, and the salary so withholden shall be forfeited; but the superintendent may remit the forfeiture, in whole or in part, upon the commissioner disproving or excusing such neglect.

Superintendent may withhold commissioner's salary.

§ 11. A commissioner upon the written request of the commissioners of an adjoining district, may perform any of his duties for him, and upon requirement of the state superintendent of public instruction must perform the same.

Commissioner to serve for another.

§ 12. No school commissioner shall act as agent for any author, publisher or bookseller, nor directly or indirectly receive any gift, emolument, reward or promise of reward, for his influence in recommending or procuring the use of any book, or school apparatus, or furniture of any kind whatever, in any common school, or the purchase of any book for a district library. Any one who shall procure or solicit a violation of this provision, or of any part thereof, shall be guilty of a misdemeanor; and any such violation shall subject the guilty commissioner to removal from his office by the superintendent of public instruction.

Not to act as agent for author or publisher, etc.

§ 13. Every commissioner shall have power, and it shall be his duty:

†1. From time to time to inquire and ascertain whether the boundaries of the school districts within his district are definitely and plainly described in the records of the proper town clerks; and in case the record of the boundaries of any school district shall be found defective or indefinite, or if the same shall be in dispute, then to cause the same to be

Duties of school commissioner.

To define district boundaries.

*As amended by sec. 2, chap. 84, Laws of 1867.

†As amended by sec. 7, chap. 567, Laws of 1875.

ACT RELATING TO

amended, or an amended record of the boundaries to be made. All necessary expenses incurred in establishing such amended records shall be a charge upon the district or districts affected, to be audited and allowed by the trustee or trustees thereof, upon the certificate of the school commissioner.

To visit
and exam-
ine
schools.

2. To visit and examine all the schools and school districts within his district as often in each year as shall be practicable; to inquire into all matters relating to the management, the course of study and mode of instruction, and the text-books and discipline of such schools, and the condition of the school-houses, sites, out-buildings and appendages, and of the district generally; to examine the district libraries; to advise with and counsel the trustees and other officers of the district in relation to their duties, and particularly in respect to the construction, warming and ventilation of school-houses, and the improving and adorning of the school grounds connected therewith; and to recommend to the trustees and teachers the proper studies, discipline and management of the schools, and the course of instruction to be pursued.

Libraries,
school-
houses,
etc.

Studies.

To direct
trustees to
make re-
pairs.

*3. Upon such examination, to direct the trustees to make any alteration or repair on the school-house or out-buildings which shall, in his opinion, be necessary for the health or comfort of the pupils, but the expense of making such alterations or repairs shall, in no case, exceed the sum of two hundred dollars, unless an additional sum shall be voted by the district. He may also direct the trustees to abate any nuisance in or upon the premises, provided the same can be done at an expense not exceeding twenty-five dollars.

May direct
abatement
of nul-
sance.

To con-
demn unfit
school-
houses.

*4. In concurrence with the supervisor of the town in which a school-house is situated, by an order under their hands, reciting the reason or reasons, to condemn such school-house, if they deem it wholly unfit for use and not worth repairing, and to deliver the order to the trustees, or one of them, and transmit a copy to the superintendent of public instruction.

Such order, if no time for its taking effect be stated in it, shall take effect immediately. They shall also state what sum, not exceeding eight hundred dollars, will, in their opinion, be necessary to erect a school-house capable of accommodating the children of the district. Immediately upon the receipt of said order the trustee or trustees of such district shall call a special meeting of the inhabitants of said district, for the purpose of considering the question of building a school-house therein. Such meeting shall have power to determine the size of said school-house, the material to be used in its erection, and to vote a tax to build the same; but such meeting shall have no power to reduce the estimate made by the commissioner and supervisor aforesaid by more than twenty-five per cent of such estimate. And where no tax for building such house shall have been voted by such district within thirty days from the time of holding the first meeting to consider the question, then it shall be the duty of the trustee or trustees of such district to contract for the building of a school-house capable of accommodating the children of the district, and to levy a tax to pay for the same, which tax shall not exceed the sum estimated as necessary by the commissioner and supervisor as aforesaid, and which shall not be less than such estimated sum by more than twenty-five per cent thereof. But such estimated sum may be increased by a vote of the inhabitants at any school meeting subsequently called and held according to law.

May estimate sum necessary to build school-house.

Trustee to call special meeting.

Trustee to build school-house and levy tax for same if district neglect.

5. To examine persons proposing to teach common schools within his district, and not possessing the superintendent's certificate of qualification or a diploma of the state normal school, and to inquire into their moral fitness and capacity, and, if he find them qualified, to grant them certificates of qualification, in the forms which are or may be prescribed by the superintendent.

To examine and license teachers.

6. To re-examine any teacher holding his or his predecessor's certificate, and if he find him deficient in learning or ability, to annul the certificate.

Re-examine

7. To examine any charge affecting the moral character of any teacher within his district, first

To examine character

ges against
teachers.

Annul
certifi-
cates.

giving such teacher reasonable notice of the charge, and an opportunity to defend himself therefrom; and if he find the charge sustained, to annul the teacher's certificate, by whomsoever granted, and to declare him unfit to teach; and if the teacher held a certificate of the superintendent, or a diploma of the state normal school, to notify the superintendent forthwith of such annulment and declaration.

8. And, generally, to use his utmost influence and most strenuous exertions to promote sound education, elevate the character and qualifications of teachers, improve the means of instruction and advance the interests of the schools under his supervision.

Commis-
sioners to
take affida-
vits.

§ 14. Every school commissioner shall have power to take affidavits and administer oaths in all matters pertaining to common schools, but without charge or fee; and, under the direction of the superintendent of public instruction, to take and report to him the testimony in any case of appeal.

Subject to
the super-
intendent
of public
instruc-
tion.

To report
annually,
etc.

§ 15. The commissioners shall be subject to such rules and regulations as the superintendent of public instruction shall, from time to time, prescribe; and appeals from their acts and decisions may be made to him, as hereinafter provided. They shall, whenever thereto required by the superintendent, report to him, as to any particular matter or act, and shall severally make to him annually, up to the first day of October in each year, a report in such form, and containing all such particulars as he shall prescribe and call for; and for that purpose shall procure the reports of the trustees of the school-districts from the town-clerks' offices, and after abstracting the necessary contents thereof, shall arrange and indorse them properly, and deposit them with a copy of his own abstract thereof, in the office of the county clerk; and the clerk shall safely keep them.

TITLE III.

OF THE STATE AND OTHER SCHOOL MONEYS, THEIR APPORTIONMENT AND DISTRIBUTION, AND, HEREIN, OF TRUSTS AND GIFTS FOR THE BENEFIT OF COMMON SCHOOLS.

FIRST ARTICLE.

Of the state school moneys and their apportionment by the superintendent of public instruction, and payment to the county treasurers.

*SECTION 1. There shall be raised by tax, in the present and each succeeding year, upon the real and personal estate of each county within the state, one mill and one-fourth of a mill upon each and every dollar of the equalized valuation of such estate, for the support of common schools in the State; and the proceeds of such tax shall be apportioned and distributed as herein provided.

State tax for the support of schools.

§ 2. No clerk of any board of supervisors, or other person who shall make out the tax list or assessment roll of any town, shall omit to include and apportion among the moneys to be raised thereby the amount hereby required to be raised for the support of schools, by reason of the omission of the board of supervisors to pass a resolution for that purpose.

Clerk of board of supervisors may not omit to include the state school tax.

† § 3. The moneys so raised shall be paid into the state treasury, and the treasurer may transfer them from one depository to another, by his draft, countersigned and entered by the superintendent of public instruction: On the first working day of each month the treasurer shall make to the superintendent of public instruction a written statement of the condition of the free school fund, showing the amount received and paid during the preceding month, and the balance remaining on hand. The

How money to be deposited.

Treasurer to report.

*As amended by sec. 3, chap. 406, Laws of 1867.

†As amended by sec. 8, chap. 567, Laws of 1875.

bank in which such moneys are deposited shall furnish the superintendent of public instruction a book, in which the officers of such banks shall make entries of all sums deposited therein by the treasurer, from time to time, to the credit of said free school fund. No such money shall be paid out of the treasury except upon such warrant of the superintendent, countersigned by the comptroller, referring to the law under which it is drawn. The superintendent shall countersign and enter all checks drawn by the treasurer in payment of his warrants, and all receipts of the treasurer for such money paid to the treasurer, and no such receipt shall be evidence of payment unless it be so countersigned.

Comptrol-
ler may
withhold
moneys
from
counties.

Treasurer
and super-
intendent
may bor-
row mon-
eys.

*§ 4. The comptroller may withhold the payment of any moneys to which any county may be entitled, from the appropriation of the incomes of the school fund and the United States deposit fund for the support of common schools, until satisfactory evidence shall be furnished to him that all moneys required by law to be raised by taxation upon such county, for the support of schools throughout the state, have been collected and paid or accounted for to the state treasurer; and whenever, after the first day of March in any year, in consequence of the failure of any county to pay such moneys on or before that day, there shall be a deficiency of moneys in the treasury applicable to the payment of school moneys to which any other county may be entitled, the treasurer and superintendent of public instruction are hereby authorized to make a temporary loan of the amount so deficient, and such loan, and the interest thereon at the rate of twelve per cent per annum, until payment shall be made to the treasury, shall be a charge upon the county in default, and shall be added to the amount of state tax, and levied upon such county by the board of supervisors thereof, at the next ensuing assessment, and shall be paid into the treasury in the same manner as other taxes.

State
school
moneys.

§ 5. The moneys raised by the state tax or borrowed as aforesaid to supply a deficiency thereof,

and such portion of the income of the United States deposit fund as shall be appropriated, and the income of the common school fund, when the same are appropriated to the support of common schools, constitute the state school moneys, and shall be divided and apportioned by the superintendent of public instruction, on or before the twentieth day of January in each year as follows: and all moneys so apportioned except the library moneys, shall be applied exclusively to the payment of teachers' wages.

Apportionment by superintendent.

Applied to teachers' wages.

*§ 6. He shall apportion and set apart from the income of the United States deposit fund so appropriated the amounts required to pay the annual salaries of the school commissioners elected or elective under this act, to be drawn out of the treasury and paid to the several commissioners, as hereinbefore provided; and he shall also apportion to each of the cities of the state, and to each of the incorporated villages of the state having a population of five thousand and upwards, which, under a special act, employs a superintendent of common schools, or a clerk of the board of education, who does the duty of supervision, out of the income of the said fund, and if insufficient the deficiency out of the free school fund, so appropriated, the sum of eight hundred dollars, and in case any city is entitled to more than one member of assembly according to the unit of representation adopted by the legislature, five hundred dollars for each additional member of assembly, to be expended according to law, for the support of the common schools of the city. He shall then set apart, from the income of the United States deposit fund, for and as library moneys, such sum as the legislature shall appropriate for that purpose. He shall also set apart from the free school fund a sum not exceeding four thousand dollars for a contingent fund. He shall then set apart and apportion, for and on account of the Indian schools under his supervision, a sum which will be equitably equivalent to their proportion of the state school money, upon the basis of distribution established by this act, such sum to be

Income of United States deposit fund, and free school fund.

*As amended by chap. 374, Laws of 1876.

wholly payable out of the proceeds of the state tax for the support of common schools. After deducting the said amounts, he shall divide the remainder of the state school moneys into two parts, one to be one-third and the other to be two-thirds of such remainder, and shall apportion them as hereinafter specified.

One-third
apportion-
ment.

§ 7. He shall apportion the one-third of the remainder equally among the school districts and cities from which reports shall have been received in accordance with law, as follows:

What dis-
tricts to re-
ceive dis-
trict quo-
ta.

To entitle a district to a distributive portion or district quota, a qualified teacher, or successive qualified teachers, must have actually taught the common school of the district, for at least the term of time hereinafter mentioned, during the last preceding school year. For every additional qualified teacher and his successors who shall have actually taught in said school during the whole of said term, the district shall be entitled to another distributive quota; but pupils employed as monitors, or otherwise, shall not be deemed teachers. The aforementioned term, during the current school year shall be six months, and thereafter shall be twenty-eight weeks of five school days each, inclusive of New Year's day, Washington's birthday, the fourth day of July, Christmas day, and any other day which shall be, by law, declared a holiday, which shall occur during the term. A deficiency not exceeding three weeks during the current year, or in any subsequent year, caused by a teacher's attendance upon a teachers' institute within the county, shall be excused.

One quota
for each
qualified
teacher.

Term of
school.

Two-thirds
apportion-
ment.

§ 8. Having so apportioned and distributed the one-third, the superintendent shall apportion the two-thirds of the said remainder, and also the library moneys separately, among the counties of the state, according to their respective population, excluding Indians residing on their reservations, as the same shall appear from the last preceding state or United States census; but as to counties in which are situated cities having special school acts, he shall apportion to each city the part to which it shall so appear

Apportion-
ment and
payment
to cities.

entitled, and to the residue of the county the part to which it shall appear to be so entitled. If the census according to which the apportionment should be made, does not show the sum of the population of any county or city, the superintendent shall, by the best evidence he can procure, ascertain and determine the population of such county or city at the time the census was taken, and make his apportionment accordingly.

§ 9. The superintendent shall apportion to each separate neighborhood which shall have duly reported, such fixed sum as will, in his opinion, be equitably equivalent to its portion of all the state school moneys upon the basis of distribution established by this act; such sum to be payable out of the contingent fund hereinbefore established.

Separate neighborhoods.

§ 10. Whenever any school district or separate neighborhood shall have been excluded from participation in any apportionment made by the superintendent, or by the school commissioners, by reason of its having omitted to make any report required by law, or to comply with any other provision of law, or with any rule or regulation made by the superintendent under the authority of law, and it shall be shown to the superintendent that such omission was accidental or excusable, he may, upon the application of such district or neighborhood, make to it an equitable allowance; and if the apportionment was made by himself, cause it to be paid out of the contingent fund; and, if the apportionment was made by the commissioners, direct them to apportion such allowance to it, at their next annual apportionment, in addition to any apportionment to which it may then be entitled.

Superintendent may excuse neglect and make supplemental apportionment.

§ 11. If money to which it is not entitled, or a larger sum than it is entitled to, shall be apportioned to any county, or part of a county, or school district, and it shall not have been so distributed or apportioned among the districts, or expended, as to make it impracticable so to do, the superintendent may reclaim such money or excess, by directing any officer in whose hands it may be, to pay it into the state treasury, to the credit of the free school fund; and

Moneys apportioned in excess may be reclaimed by the superintendent.

the state treasurer's receipt, countersigned by the superintendent, shall be his only voucher; but if it be impracticable so to reclaim such money or excess, then the superintendent shall deduct it from the portion of such county, part of a county or district, in his next annual apportionment, and distribute the sum thus deducted, equitably among the counties and parts of counties, or among the school districts in the state entitled to participate in such apportionment, according to the basis of apportionment in which such excess occurred.

Deficiencies to be supplied by supplemental apportionment.

§ 12. If a less sum than it is entitled to shall have been apportioned by the superintendent to any county, part of a county or school district, the superintendent may make a supplementary apportionment to it, of such a sum as shall make up the deficiency, and the same shall be paid out of the contingent fund, if sufficient, and if not, then the superintendent shall make up such deficiency in his next annual apportionment.

To certify to county clerk, treasurer, commissioner, etc.

§ 13. As soon as possible after the making of any annual or general apportionment, the superintendent shall certify it to the county clerk, county treasurer, school commissioners and city treasurer or chamberlain, in every county in the state; and if it be a supplemental apportionment, then to the county clerk, county treasurer and school commissioners of the county in which the neighborhood or the schoolhouse of the district concerned is situate.

*§ 14. The moneys so annually apportioned by the superintendent shall be payable on the first day of April next after the apportionment, to the treasurers of the several counties and the chamberlain of the city of New York, respectively; and the said treasurers and the chamberlain shall apply for and receive the same as soon as payable.

*As amended by sec. 10, chap. 567, Laws of 1875.

SECOND ARTICLE.

Of trusts for the benefit of common schools, and of town school funds, fines, penalties and other moneys held or given for their benefit.

§ 15. Real and personal estate may be granted, conveyed, devised, bequeathed and given in trust and in perpetuity or otherwise, to the state, or to the superintendent of public instruction, for the support or benefit of the common schools within the state, or within any part or portion of it, or of any particular common school or schools within it; and to any county, or the school commissioner or commissioners of any county, or to any city or any board or officers thereof, or to any school commissioner district or its commissioner, or to any town or supervisor of a town, or to any school district or its trustee or trustees, for the support and benefit of common schools within such county, city, school commissioner district, town or school district, or within any part or portion thereof respectively, or for the support and benefit of any particular common school or schools therein.

Real and personal estate given in trust for the benefit of common schools.

§ 16. No such grant, conveyance, devise or bequest shall be held void for the want of a named or competent trustee or donee, but where no trustee or donee, or an incompetent one is named, the title and trust shall vest in the people of the state, subject to its acceptance by the legislature, but such acceptance shall be presumed.

Trusts not invalid for want of trustee or donee.

§ 17. The legislature may control and regulate the execution of all such trusts; and the superintendent of public instruction shall supervise and advise the trustees, and hold them to a regular accounting for the trust property and its income and interest, at such times, in such forms, and with such authentications, as he shall from time to time prescribe.

Legislature to control and regulate trusts.

Superintendent to require trustees to account.

§ 18. The common council of every city, the board of supervisors of every county, the trustees of every village, the supervisor of every town, the trustee or trustees of every school district, and every other offi-

Certain officers and boards to report trusts, etc., to superintendent.

cer or person who shall be thereto required by the superintendent of public instruction, shall, on or before the thirtieth day of September next, report to him whether any, and if any, what trusts are held by them respectively, or by any other body, officer or person, to their information or belief for school purposes, and shall transmit therewith an authenticated copy of every will, conveyance, instrument or paper embodying or creating the trust; and shall, in like manner, forthwith report to him the creation and terms of every such trust subsequently created.

Gospel
and school
lots.

§ 19. Every supervisor of a town shall, by the thirtieth day of September next, report to the superintendent whether there be, within the town, any gospel or school lot, and, if any, shall describe the same, and state to what use, if any, it is put by the town; and whether it be leased, and if so, to whom, for what term and upon what rents; and whether the town holds or is entitled to any land, moneys or securities arising from any sale of such gospel or school lot, and the investment of the proceeds thereof, or of the rents and income of such lots and investments, and shall report a full statement and account of such lands, moneys and securities.

Moneys in
the hands
of over-
seers of
the poor.

§ 20. Every supervisor of a town shall in like manner, by the thirtieth day of September next, report to the superintendent whether the town has a common school fund originated under the "act relative to moneys in the hands of overseers of the poor," passed April 27, 1829, and, if it have, the full particulars thereof, and of its investment, income and application, in such form as the superintendent may prescribe.

Superin-
tendent to
report to
the legisla-
ture.

§ 21. In respect to the property and funds in the two last sections mentioned, the superintendent shall, at the next session of the legislature, and annually thereafter, include in his annual report a statement and account thereof. And, to these ends, he is authorized, at any time, and from time to time, to require from the supervisor, board of town auditors, or any officer of a town, a report as to any fact, or any information or account, he may deem necessary or desirable.

§ 22. Whenever, by any statute, a penalty or fine is imposed for the benefit of common schools, and not expressly of the common schools of a town or school district, it shall be taken to be for the benefit of the common schools of the county within which the conviction is had; and the fine or penalty, when paid or collected, shall be paid forthwith into the county treasury, and the treasurer shall credit the same as school moneys of the county, unless the county comprise a city having a special school act, in which case he shall report it to the superintendent, who shall apportion it upon the basis of population by the last census, between the city and the residue of the county, and the portion belonging to the city shall be paid into its treasury.

Penalties
and fines
how paid
and appor-
tioned.

§ 23. Every district attorney shall report, annually, to the board of supervisors, all such fines and penalties imposed in any prosecution conducted by him during the previous year; and all moneys collected or received by him or by the sheriff, or any other officer, for or on account of such fines and penalties, shall be immediately paid into the county treasury, and the receipt of the county treasurer shall be a sufficient and the only voucher for such money.

District at
torney to
report
fines and
penalties
to super-
visors.

§ 24. Whenever a fine or penalty is inflicted or imposed for the benefit of the common schools of a town or school district, the magistrate, constable or other officer, collecting or receiving the same, shall forthwith pay the same to the county treasurer of the county in which the school-house is located, who shall credit the same to the town or district for whose benefit it is collected. If the fine or penalty be inflicted or imposed for the benefit of the common schools of a city having a special school act, or of any part or district of a city, it shall be paid into the city treasury.

Fines and
penalties
to whom
paid.

§ 25. Whenever, by this or any other act, a penalty or fine is imposed upon any school district officer for a violation or omission of official duty, or upon any person for any act or omission within a school district, or touching property or the peace and good order of the district, and such penalty or fine is declared to be for, or for the use or benefit of

Penalties
in joint
districts.

the common schools of the town, or of the county, and such school district lies in two or more towns or counties, the town or county intended by the act shall be taken to be the one in which the school-house, or the school-house longest owned or held by the district is, at the time of such violation, act or omission.

Embezzle-
ment, pen-
alty for.

§ 26. Any district attorney, sheriff, justice of the peace, police justice or other magistrate or officer, who shall embezzle, or willfully withhold from or omit to pay into the county treasury any money received or collected in payment or satisfaction, in whole or in part, of any fine or penalty in the four last preceding sections mentioned, shall be guilty of a misdemeanor; and any fine imposed upon a conviction thereof shall be for the benefit of the common schools of the county.

THIRD ARTICLE.

Of the apportionment of the state schools moneys, and of other schools moneys by the school commissioners and their payment to the supervisors.

Appor-
tionment
of
school mo-
neys by
commis-
sioners.

§ 27. The school commissioner, or commissioners of each county, shall proceed, at the county seat, on the third Tuesday of March in each year, to ascertain, apportion and divide the state and other school moneys as follows:

Library
moneys.

1. They shall set apart any library moneys apportioned by the superintendent.

Shall set
apart mon-
eys special-
ly appor-
tioned by
the super-
intendent.

2. From the other moneys apportioned to the county, they shall set apart and credit to each separate neighborhood and school district the amount apportioned to it by the state superintendent, and to every district which did not participate in the apportionment of the previous year, and which the superintendent shall have excused, such equitable sum as he shall have allowed to it.

Return of
unexpended
moneys
by super-
visors.

3. They shall procure from the treasurer of the county a transcript of the returns of the supervisors hereinafter required, showing the unexpended moneys in their hands applicable to the payment of teachers' wages and to library purposes, and shall add

the whole sum of such moneys to the balance of the state moneys to be apportioned for teachers' wages. The amounts in each supervisor's hands shall be charged as a partial payment of the sums apportioned to the town for library moneys and teachers' wages respectively.

4. They shall procure from the county treasurer a full list and statement of all payments to him of moneys for or on account of fines and penalties, or accruing from any other source, for the benefit of schools and of the town or towns, district or districts for whose benefit the same were received. Such of said moneys as belong to a particular district, they shall set apart and credit to it; and such as belong to the schools of a town, they shall set apart and credit to the schools in that town, and shall apportion them together with such as belong to the schools of the county, hereinafter provided, for the payment of teachers' wages.

Returns
from treasurer of
fines and
penalties.

How ap-
portioned.

5. They shall apportion the library moneys to the school districts and parts of school districts joint with parts in any city or in an adjoining county, which shall be entitled to participate therein as hereinafter specified, in proportion to the number of children in each between the ages of five and twenty-one years, as the same shall appear from the reports of the trustees for the last preceding school year.

Appor-
tionment
of library
moneys
according
to number
of chil-
dren.

6. They shall apportion in like manner and upon the same basis, until the apportionment of the year eighteen hundred and sixty-six, the remaining unapportioned moneys among such school districts and parts of school districts.

Remaining
moneys.

7. In the apportionment of eighteen hundred and sixty-six, and in every subsequent apportionment, they shall apportion one-half of such remaining unapportioned moneys, in the like manner and upon the same basis, among such school districts and parts of districts; and the other half they shall apportion among such districts and parts of districts, in proportion to the average daily attendance of the pupils resident therein between the ages of five and twenty-one years, at their respective schools during the last preceding school year. The average daily attendance

New basis
in 1866.

On average
attend-
ance.

Attend-
ance ascer-
tained.

of the pupils is to be ascertained from the records thereof kept by the teachers, as hereinafter prescribed, by adding together the whole number of days' attendance of each and every such pupil in the district, or part of a district, and dividing the aggregate by the whole number of days the school was kept during the year.

8. They shall then set apart to each town the moneys so set apart and apportioned to each separate neighborhood ; to each district the school-house of which is therein ; and to each part of a joint district therein the school-house of which is located in a city or in a town in an adjoining county.

Certifi-
cates of
apportion-
ment.

9. They shall sign, in duplicate, a certificate, showing the amounts apportioned and set apart to each separate neighborhood, school district and part of a district, and the towns in which they are situated, and shall designate therein the source from which each item of the aggregate to each district and town was derived ; and shall forthwith deliver one of said duplicates to the treasurer of the county and transmit the other to the superintendent of public instruction.

Certify to
the super-
visor.

10. They shall certify to the supervisor of each town the amount of school moneys so apportioned to his town, and the portions thereof to be paid by him for library purposes and for teachers' wages, to each such distinct separate neighborhood, district and part of a district.

Erroneous
apportion-
ment, how
remedied.

§ 28. If in their apportionment, through any error of the commissioners, any district shall have apportioned to it a larger or a less share of the moneys than it is entitled to, the commissioners may in their next annual apportionment, with the approbation of the superintendent, correct the error by an equitable deduction from or augmentation of the share of such district.

What dis-
trict enti-
tled to
public
moneys.

§ 29. No district or part of a district shall be entitled to any portion of such school moneys on such apportionment unless the report of the trustees for the preceding school year shall show that a common school was supported in the district and taught by a qualified teacher for such a term of time as would,

under section seven of this title, entitle it to a distributive share under the apportionment of the superintendent.

§ 30. On receiving the certificate of the commissioners, each supervisor shall forthwith make a copy thereof for his own use, and deposit the original in the office of the clerk of his town; and the moneys so apportioned to his town shall be paid to him immediately on his compliance with the requirements of the next section, and not before.

Supervisor
to make
apportion-
ment and
file the
original.

*§ 31. Immediately on receiving the commissioners' certificate of apportionment, the county treasurer shall require of each supervisor, and each supervisor shall give to the treasurer, in behalf of the town, his bond, with two or more sufficient sureties, approved by the treasurer, in the penalty of at least double the amount of the school moneys set apart or apportioned to the town, and of any such moneys unaccounted for by his predecessor, conditioned for the faithful disbursement, safe-keeping and accounting for such moneys, and of all other school moneys, that may come into his hands from any other source. If the condition shall be broken, the county treasurer shall sue the bond in his own name, in behalf of the town, and the money recovered shall be paid over to the successor of the supervisor in default, such successor having first given security as aforesaid. Whenever the office of a supervisor shall become vacant, by reason of the expiration of his term of service or otherwise, the county treasurer shall require the person elected or appointed to fill such vacancy to execute a bond, with two or more sureties, to be approved by the treasurer, in the penalty of at least double the sum of the school moneys remaining in the hands of the old supervisor, when the office became vacant, conditioned for the faithful disbursement, safe-keeping and accounting for such moneys. But the execution of this bond shall not relieve the supervisor from the duty of executing the bond first above mentioned.

Supervisor
to give
bonds.

In case of
vacancy in
office of
supervisor

Refusal to
give secu-
rity a mis-
demeanor.

County
judge may
appoint.

§ 32. The refusal of a supervisor to give such security shall be a misdemeanor, and any fine imposed on his conviction thereof shall be for the benefit of the common schools of the town. Upon such refusal, the moneys so set apart and apportioned to the town shall be paid to and disbursed by some other officer or person to be designated by the county judge, under such regulations and with such safeguards as he may prescribe, and the reasonable compensation of such officer or person, to be adjusted by the board of supervisors, shall be a town charge.

TITLE IV.

OF THE DISBURSEMENT OF THE SCHOOL MONEYS BY THE SUPERVISORS, AND OF SOME OF THEIR SPECIAL POWERS, DUTIES AND LIABILITIES UNDER THIS ACT.

Supervis-
ors to be
trustees of
gospel and
school
lots.

SECTION 1. The several supervisors continue vested with the powers and charged with the duties formerly vested in and charged upon the trustees of the gospel and school lots, and transferred to and imposed upon town superintendents of common schools by chapter one hundred and eighty-six, of the laws of one thousand eight hundred and forty-six.

Powers
under for-
mer acts.

§ 2. The several supervisors continue vested with the powers and charged with the duties conferred and imposed upon the commissioners of common schools by the act of eighteen hundred and twenty-nine, entitled "An act relative to moneys in the hands of overseers of the poor."

Embezzle-
ment of
moneys by
supervis-
ors.

§ 3. A supervisor who shall embezzle or apply to his own private use any money or security received by him under any provisions of this act, including the two preceding sections of this title, shall be guilty of a misdemeanor, and any fine imposed upon a conviction thereof shall be for the benefit of the common schools of the town.

To make a
return of
moneys in
their
hands.

§ 4. On the first Tuesday of March in each year, each supervisor shall make a return in writing to the county treasurer for the use of the school commissioners, showing the amounts of school moneys in

his hands not paid out on the orders of trustees for teachers' wages, nor drawn by them for library purposes, and the districts to which they stand accredited (and if no such money remain in his hands, he shall report that fact); and thereafter he shall not pay out any of said moneys until he shall have received the certificate of the next apportionment; and the moneys so returned by him shall be re-apportioned as hereinbefore directed.

§ 5. Any supervisor who neglects to make the said return, or shall make a false return, shall forfeit twenty-five dollars, to be recovered by his successor in office, or if he be re-elected, by the county treasurer of the county in which the town lies, for the benefit of the common schools of the county.

Penalty
for neg-
lect.

§ 6. It is the duty of every supervisor:

Supervis-
ors' duties.

*1. To disburse the school moneys in his hands, applicable to the payment of teachers' wages, upon and only upon the written orders of a sole trustee, or a majority of the trustees, in favor of qualified teachers, or upon the order of a trustee of a separate neighborhood in favor of any teacher of a school in an adjoining state, recognized by him and patronized by the inhabitants of such neighborhood. Such teacher shall be deemed a qualified teacher.

†2. To disburse the library moneys upon, and only upon, the written orders of a sole trustee, or of a majority of the trustees.

3. In the case of a union free school district, to pay over all the school money apportioned thereto, whether for the payment of teachers' wages, or as library moneys, to the treasurer of such district, upon the order of its board of education.

4. To keep a just and true account of all the school moneys received and disbursed by him during each year, and to lay the same, with proper vouchers, before the board of town auditors at each annual meeting thereof.

5. To have a bound blank book (the cost of which shall be a town charge), and to enter therein all his receipts and disbursements of school moneys, speci-

*As amended by sec. 12, chap. 567, Laws of 1875.

†As amended by sec. 13, chap. 567, Laws of 1875.

fying from whom and for what purposes they were received, and to whom and for what purposes they were paid out ; and to deliver the book to his successor in office.

6. Within fifteen days after the termination of his office, to make out a just and true account of all school moneys theretofore received by him and of all disbursements thereof, and to deliver the same to the town clerk, to be filed and recorded, and to notify his successor in office of such rendition and filing.

7. So soon as the bond to the county treasurer, by the third article of the third title of this act required, shall have been given by him and approved by the treasurer, to deliver to his predecessor the treasurer's certificate of these facts, to procure from the town clerk a copy of his predecessor's account, and to demand and receive from him any and all school moneys remaining in his hands.

8. Upon receiving such a certificate from his successor, and not before, to pay to him all school moneys remaining in his hands, and to forthwith file the certificate in the town clerk's office.

9. By his name of office, when the duty is not elsewhere imposed by law, to sue for and recover penalties and forfeitures imposed for violations of this act, and for any default or omission of any town officer or school district board or officer under this act ; and after deducting his costs and expenses, to report the balances to the school commissioner.

10. To act, when thereto legally required, in the erection or alteration of a school district, as in the sixth title of this act provided, and to perform any other duty which may be devolved upon him by this act, or any other act relating to common schools.

TITLE V.

OF THE DUTIES OF THE TOWN CLERK UNDER THIS ACT.

SECTION 1. It shall be the duty of the town clerk of each town :

Duties of
town
clerk.

1. Carefully to keep all books, maps, papers and records of his office touching common schools, and forthwith to report to the supervisor any loss of or injury to any of them which may happen.

2. To receive from the supervisor the certificates of apportionment of school moneys to the town, and to record them in a book to be kept for that purpose.

3. Forthwith to notify the trustees of the several school districts and separate neighborhoods, of the filing of each such certificate.

*4. To see that the trustees of the school districts and separate neighborhoods make and deposit with him their annual reports within the time prescribed by law, and to deliver them to the school commissioner on demand ; and to furnish the school commissioner of the school commissioner district in which his town is situated, the names and post-office address of the school district officers reported to him by the district clerks.

Town
clerk to re-
port
names of
district
officers to
commis-
sioners.

5. To distribute to the trustees of the school districts and separate neighborhoods, all blanks and circulars which shall be delivered or forwarded to him by the state superintendent or school commissioner for that purpose.

6. To receive from the supervisor, and record in a book kept for that purpose, the annual account of the receipts and disbursements of school moneys required to be submitted to the town auditors together with the action of the town auditors thereon, and to send a copy of the account and of the action thereon, by mail, to the superintendent of public instruction, whenever required by him, and to file and preserve the vouchers accompanying the account.

*As amended by sec. 5, chap. 647, Laws of 1865.

7. To receive and to record, in the same book, the supervisor's final account of the school moneys received and disbursed by him, and deliver a copy thereof to such supervisor's successor in office.

8. To receive from the outgoing supervisor, and file and record in the same book, the county treasurer's certificate, that his successor's bond has been given and approved.

9. To receive, file and record the descriptions of the school districts and neighborhoods, and all papers and proceedings delivered to him by the school commissioner pursuant to the next title of this act.

10. To act, when thereto legally required, in the erection or alteration of a school district, as in the next title of this act provided.

*11. To receive and preserve the books, papers and records of any dissolved school district, which shall be ordered, as hereinafter provided, to be deposited in his office.

12. To perform any other duty which may be devolved upon him by this act, or by any other act touching common schools.

§ 2. The necessary expenses and disbursements of the town clerk, in the performance of said duties, are a town charge, and shall be audited and paid as such.

TITLE VI.

OF THE FORMATION, DISSOLUTION AND ALTERATION OF SCHOOL DISTRICTS AND SEPARATE NEIGHBORHOODS.

SECTION 1. It shall be the duty of each school commissioner, in respect to the territory within his district :

1. To divide it, so far as practicable, into a convenient number of school districts, and alter the same as herein provided ;

2. In conjunction with the commissioner or commissioners of an adjoining school commissioner dis-

Commissioner's
duties in
respect to
school dis-
tricts.

*Original sub-division 11 stricken out by sec. 18, chap. 647, Laws of 1865.

trict or districts, to set off joint districts composed of adjoining parts of their respective districts ;

3. To set off by itself any neighborhood adjoining any other state of the Union, where it shall be found most convenient for the inhabitants to send their children to a school in such adjoining state ;

4. To describe and number the school districts, and joint districts, and to deliver, in writing, to the town clerk, the description and number of each district lying in whole or in part in his town, together with all notices, consents and proceedings relating to the formation or alteration thereof, immediately after such formation or alteration. Every joint district shall bear the same number in every school commissioner district of whose territory it is in part composed.

5. To deliver to the town-clerk of the town in which it lies, in whole or in part, a description of each such separate neighborhood.

*§ 2. With the written consent of the trustees of all the districts to be affected thereby, he may, by order, alter any school-district within his jurisdiction, and fix, by said order, a day when the alteration shall take effect.

May alter districts with consent of trustees.

†§ 3. If the trustees of any such district refuse to consent, he may make and file with the town-clerk his order making the alteration, but reciting the refusal, and directing that the order shall not take effect, as to the dissenting district or districts, until a day therein to be named, and not less than three months after the notice in the next section mentioned.

‡§ 4. Within ten days after making and filing such order, he shall give at least a week's notice, in writing, to one or more of the assenting and dissenting trustees of any district or districts to be affected by the proposed alterations, that at a specified time and at a named place within the town in which either of the districts to be affected lies, he will hear the objections to the alteration. The trustees of any district to be affected by such order may request the supervisor

Procedure on the refusal of trustees to the alteration of a school-district

* As amended by sec. 5, chap. 406, Laws of 1867.

† As amended by sec. 6, chap. 406, Laws of 1867.

‡ As amended by sec. 6, chap. 647, Laws of 1865.

and town-clerk of the town or towns within which such district or districts shall wholly or partly lie, to be associated with the commissioner. At the time and place mentioned in the notice, the commissioner or the commissioners, with the supervisors and town-clerks, if they shall attend and act, shall hear and decide the matter; and the decision shall be final, unless duly appealed from. Such decision must either confirm or vacate the order of the commissioner, and must be filed with and recorded by the town-clerk of the town or towns in which the district or districts affected shall lie.

Fees of
supervisor
and town
clerk.

§ 5. The supervisor and town clerk shall be entitled each, to one dollar and fifty cents a day, for each day's service in any such matter, to be levied and paid as a charge upon their town.

Formation
of joint
districts.

§ 6. Whenever it may become necessary or convenient to form a school district out of parcels of two or more school commissioner districts, the commissioners of such districts, or a majority of them, may form such district; and the commissioners within whose districts any such school district lies or a majority of them, may alter or dissolve it.

Alteration
or dissolution
of a
joint
district.

§ 7. If a school commissioner, by notice in writing, shall require the attendance of the other commissioner or commissioners, at a joint meeting for the purpose of altering or dissolving such a joint district, and a majority of all the commissioners shall refuse or neglect to attend, the commissioner or commissioners attending, or any one of them, may call a special meeting of such school district, for the purpose of deciding whether or no such district shall be dissolved; and its decision of that question shall be as valid as though made by the commissioners.

Consolidation
of
districts.

§ 8. When two or more districts shall be consolidated into one, the new district shall succeed to all the rights of property possessed by the annulled districts.

Supervisor
to sell
property of
annulled
dis-
tricts.

*§ 9. When a district is parted into portions, which are annexed to other districts, its property shall be sold by the supervisor of the town, within

which its school-house is situate, at public auction after at least five days' notice, by notices posted in three or more public places of the town in which the school-house is, one of which shall be posted in the district so dissolved. The supervisor after deducting the expenses of the sale shall apply its proceeds to the payment of the debts of the district, and apportion the residue, if any, among the owners or possessors of taxable property in the district, in the ratio of their several assessments on the last corrected assessment roll or rolls of the town or towns, and pay it over accordingly.

§ 10. The supervisor of the town within which the school-house of the dissolved district was situate, may demand, sue for, and collect, in his name of office, any money of the district outstanding in the hands of any of its former officers, or any other person; and after deducting his costs and expenses, shall report the balance to the school commissioner, who shall apportion the same equitably among the districts to which the parts of the dissolved district were annexed, to be by them applied as their district meetings shall determine.

Supervisor
to sue for
outstand-
ing mon-
eys.

§ 11. Though a district be dissolved, it shall continue to exist in law, for the purpose of providing for and paying all its just debts; and to that end the trustees and other officers shall continue in office, and the inhabitants may hold special meetings, elect officers to supply vacancies, and vote taxes; and all other acts necessary to raise money and pay such debts shall be done by the inhabitants and officers of the district.

Dissolved
district to
exist in
law for
settlement
of its
affairs.

§ 12. The commissioner, or a majority of the commissioners in whose district or districts a dissolved school district was, shall by his or their order in writing, delivered to the clerk of the district, or to any person in whose possession the books, papers and records of the district, or any of them, may be, direct such clerk or other person to deposit the same in the clerk's office in a town in the order named. Such clerk or other person by neglect or refusal to obey the order, shall forfeit fifty dollars, to be applied to the benefit of common schools of said

Records,
etc., to be
deposited
with town
clerk.

Penalty
for refusal.

town. The commissioner or commissioners shall file a duplicate of the order with such clerk.

TITLE VII.

OF SCHOOL DISTRICT AND NEIGHBORHOOD MEETINGS, AND OF THE CHOICE, DUTIES AND POWERS OF SCHOOL DISTRICT AND NEIGHBORHOOD OFFICERS.

FIRST ARTICLE.

Of school district and neighborhood meetings, the voters and their powers generally.

Commissioner to describe new district and appoint a time for first meeting.

SECTION 1. Whenever any school district or separate neighborhood shall be formed, the commissioner or any one or more of the commissioners, within whose district or districts it may be, shall prepare a notice describing such district or neighborhood, and appointing a time and place for the first district or neighborhood meeting, and deliver such notice to a taxable inhabitant of the district or neighborhood.

Notice of such meeting.

§ 2. It shall be the duty of such inhabitant to notify every other inhabitant of the district or neighborhood, qualified to vote at the meeting, by reading the notice in his hearing, or in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode at least six days before the time of the meeting.

Notice of such meeting.

§ 3. In case such meeting shall not be held, and in the opinion of the commissioner, it shall be necessary to hold such meeting before the time herein fixed for the first annual meeting, he shall deliver another such notice to a taxable inhabitant of the district or neighborhood, who shall serve it as hereinbefore provided.

When commissioner may call meeting.

§ 4. When the clerk and all the trustees of a school district shall have removed from the district, or their office shall be vacant, so that a special meeting can-

not be called, as hereinafter provided, the commissioner may in like manner give notice of and call a special district meeting.

§ 5. Every taxable inhabitant to whom a notice of any district meeting shall be delivered for service, pursuant to any provision of this article, who shall refuse or neglect to serve the same, as hereinbefore prescribed, shall forfeit five dollars for the benefit of the district.

Penalty
for refusal
to give
notice.

*§ 6. A special district meeting shall be held whenever called by the trustees. The notice thereof shall state the purposes for which it is called and no business shall be transacted at such special meeting, except that which is specified in the notice; and the district clerk, or if the office be vacant, or he be sick or absent, or shall refuse to act, a trustee or some taxable inhabitant, by order of the trustees, shall serve the notice upon each inhabitant of the district qualified to vote at district meetings, at least five days before the day of the meeting, in the manner prescribed in the second section of this title. But the inhabitants of any district may, at any annual meeting, adopt a resolution prescribing some other mode of giving notice of special meetings, which resolution and the mode prescribed thereby shall continue in force until rescinded or modified at some subsequent annual meeting.

Special
meetings.

§ 7. The proceedings of no neighborhood or district meeting, annual or special, shall be held illegal for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was willful and fraudulent.

Proceed-
ings legal
except in
case of
fraudulent
neglect.

†§ 8. The annual meeting of each neighborhood shall be held on the second Tuesday of October in each year, at the hour and place fixed by the last previous neighborhood meeting; or, if such hour and place has not been so fixed, then at the hour and place of such last meeting; or if such place be

Time of
annual
meeting in
neighbor-
hood.
Holding
annual
school
meeting.

* As amended by sec. 15, chap. 567, Laws of 1875.

† As amended by sec. 7, chap. 647, Laws of 1865.

no longer accessible, then at such other place as the trustees, or if there be no trustees, the clerk shall in the notices designate.

*§ 9. An annual meeting of each school district shall be held on the second Tuesday of October in each year, and unless the hour and the place therefor shall have been fixed by the vote of a previous district meeting, the same shall be held in the school-house at seven o'clock in the evening. If a district possesses more than one school-house, it shall be held in the one usually employed for that purpose, unless the trustees designate another. If the district possesses no school-house, or if the school-house shall be no longer accessible, then the annual meeting shall be held at such place as the trustee, or if there be no trustee, the clerk shall designate, in the notice.

Procedure
when the
annual
meeting
has not
been held.

§ 10. Whenever the time for holding the annual meeting in school districts shall pass without such meeting being held in any district, a special meeting shall thereafter be called by the trustees or by the clerk of such district, for the purpose of transacting the business of the annual meeting; and if no such meeting be called by the trustees or the clerk within twenty days after such time shall have passed, the supervisor or the superintendent of public instruction may order any inhabitant of such district to give notice of such meeting in the manner provided in the second section of this title, and the officers of the district shall make to such meeting the reports required to be made at the annual meeting, subject to the same penalty in case of neglect; and the officers elected at such meeting shall hold their respective offices only until the next annual meeting and until their successors are elected and shall have qualified as in this act provided.

§ 11. Whenever any district or neighborhood meeting shall be duly called, it shall be the duty of the inhabitants qualified to vote thereat to assemble at the time and place fixed for the meeting.

*§ 12. Every male person of full age residing in any neighborhood or school district, and entitled to hold lands in this state, who owns or hires real property in such neighborhood or school district liable to taxation for school purposes, and every resident of such neighborhood or district authorized to vote at town meetings of the town in which he resides, who has permanently residing with him a child or children of school age, some one or more of whom shall have attended the district school for a period of at least eight weeks within one year preceeding, or who owns any personal property liable to be taxed for school purposes in any such district, exceeding fifty dollars in value, exclusive of such as is exempt from execution, and no other shall be entitled to vote at any school meeting held in such neighborhood or district.

Voters;
their
qualifica-
tions.

§ 13. If any person offering to vote at any neighborhood or school district meeting shall be challenged as unqualified, by any legal voter in such neighborhood or district, the chairman presiding at such meeting shall require the person so offering, to make the following declaration: "I do declare and affirm that I am an actual resident of this school district (or separate neighborhood), and that I am qualified to vote at this meeting." And every person making such declaration shall be permitted to vote on all questions proposed at such meeting; but if any person shall refuse to make such declaration, his vote shall be rejected.

Unquali-
fied voters.

§ 14. Any person who, upon being so challenged, shall willfully make a false declaration of his right to vote at any such meeting, shall be deemed guilty of a misdemeanor, and punished by imprisonment in the county jail for not less than six months nor more than one year. And any person not qualified to vote at any such meeting, who shall vote thereat, shall thereby forfeit five dollars, to be sued for by the supervisors for the benefit of the common schools of the town.

Illegal vot-
ing, etc.

Powers of
neighbor-
hood
meeting.

§ 15. The inhabitants of any neighborhood entitled to vote, when assembled in any annual meeting or any other neighborhood meeting duly called by the commissioner, pursuant to the first or third sections of this title, shall have power by a majority of the votes of those present :

1. To appoint a chairman for the time being.

2. To choose a neighborhood clerk and one trustee, and to fill vacancies in office.

Powers of
district
meeting.

§ 16. The inhabitants so entitled to vote, when duly assembled in any district meeting, shall have power, by a majority of the votes of those present :

1. To appoint a chairman for the time being.

2. If the district clerk be absent, to appoint a clerk for the time.

3. To adjourn from time to time, as occasion may require.

* 4. To choose one or three trustees as hereinafter provided, a district clerk, a district collector, a librarian, at their first meeting, and so often as such offices or any of them become vacated, except as hereinafter provided.

5. To fix the amount in which the collector shall give bail for the due and faithful performance of the duties of his office.

6. To designate a site for a school-house, or, with the consent of the commissioner or commissioners within whose district or districts the school district lies, to designate sites for two or more school-houses for the district.

Tax for
sites, etc.

† 7. To vote a tax upon the taxable property of the district to purchase, lease or improve such site or sites, and to hire, build or purchase such school-houses, and to keep in repair and furnish the same with necessary fuel and appendages.

Tax for ap-
paratus
and text-
books.

8. To vote a tax, not exceeding twenty-five dollars in any one year, for the purchase of maps, globes, blackboards, and other school apparatus, and for the purchase of text-books and other school necessities for the use of poor scholars of the district.

* Note. In relation to election of trustees in districts having over 300 children of school age, see chapter 248, Laws of 1878, in the appendix.

† As amended by sec. 17, chapter 567, Laws of 1875.

* 9. To vote a tax, not exceeding ten dollars in any one year, for the purchase of such books as they shall direct for the district library, and such further sum as they may deem necessary for the purchase of a book-case.

Tax for
district
library

10. To vote a tax to supply a deficiency in any former tax, arising from such tax being, in whole or in part, uncollectible.

For
deficiency.

11. To authorize the trustees to cause the school-house or school-houses, and their furniture, appendages and school apparatus to be insured by any insurance company created by or under the laws of this state.

Insurance
on school-
house.

12. To alter, repeal and modify their proceedings from time to time, as occasion may require.

13. To vote a tax for the purchase of a book for the purpose of recording their proceedings.

14. To vote a tax to replace moneys of the district, lost or embezzled by district officers; and to pay the reasonable expenses incurred by district officers in defending suits or appeals brought against them for their official acts, or in prosecuting suits or appeals by direction of the district against other parties.

15. To vote a tax, not exceeding twenty-five dollars in each year, for anticipated deficiencies or contingencies, or to pay the wages of teachers in anticipation of the ordinary collections for that purpose, to be replaced by such collections when made.

Tax for
contingen-
cies.

† 16. To vote a tax to pay whatever deficiency there may be in teachers' wages after the public money apportioned to the district shall have been applied thereto; but if the inhabitants shall neglect or refuse to vote a tax for this purpose, or if they shall vote a tax which shall prove insufficient to cover such deficiency, then the trustees are authorized, and it is hereby made their duty, to raise by district tax, any reasonable sum that may be necessary to pay the balance of teachers' wages remaining unpaid, the

Tax for
teachers'
wages.

* Amended so as to admit of voting \$50 a year. See sec. 1, title 8 of this act, as amended by sec. 26, chap. 567, Laws of 1875.

† This sub-division added by sec. 8, chapter 406, Laws of 1867.

same as if such tax had been authorized by a vote of the inhabitants.

SECOND ARTICLE.

Of district school-houses and sites.

School-house, location of.

May vote tax of \$1,000, to build school-house.

Tax may be levied in installments.

Trustees may borrow

§ 17. No school-house shall be built so as to stand in whole or in part, upon the division line of any two towns.

*§ 18. No tax voted by a district meeting for building, hiring or purchasing a school-house, exceeding the sum of one thousand dollars, shall be levied by the trustees, unless the commissioner, in whose district the school-house of said district is situated, shall certify in writing his approval of such larger sum.

†§ 19. Whenever the majority of all the inhabitants of any school district entitled to vote, to be ascertained by taking and recording the ayes and noes of such inhabitants attending at any annual, special or adjourned school district meeting, legally called or held, shall determine that the sum proposed and provided for in the next preceding section shall be raised by installments, it shall be the duty of the trustees of such district, and they are hereby authorized to cause the same to be raised, levied and collected in equal installments in the same manner and with the like authority that other school taxes are raised, levied and collected and to make out their tax list and warrant for the collection of such installments, with interest thereon as they become payable according to the vote of the said inhabitants; but the payment or collection of the last installment shall not be extended beyond ten years from the time such vote was taken; and no vote to levy any such tax shall be reconsidered except at an adjourned, general or special meeting to be held within thirty days thereafter, and the same majority shall be required for reconsideration that was had to impose such tax. For the purpose of

* As amended by sec. 9, chap. 406, Laws of 1867.

† As amended by sec. 18, chap. 567, Laws of 1875.

giving effect to these provisions, the trustees are hereby authorized, whenever a tax shall have been voted to be collected in installments for the purpose of building a new school-house, to borrow so much of the sum voted as may be necessary, at a rate of interest not exceeding seven per cent, and to issue bonds or other evidences of indebtedness therefor, which shall be a charge upon the district, and be paid at maturity, and which shall not be sold below par; due notice of the sale of such bonds shall be given at least ten days prior thereto, of time and place of such sale.

*§ 20. So long as a district shall remain unaltered, the site of a school-house owned by it, upon which there is a school-house erected or in process of erection, shall not be changed, nor such school-house be removed, unless by the consent, in writing, of the supervisor or supervisors of the town or towns within which such district shall be situated, stating that in his or their opinion such removal is necessary; nor with such consent, unless a majority of all the legal voters of said district, present and voting, to be ascertained by taking and recording the ayes and noes, at a special meeting called for that purpose, shall be in favor of such new site.

Provisions
in regard
to change
of school-
house site.

§ 21. Whenever the site of a school-house shall have been changed, as herein provided, the inhabitants of a district entitled to vote, lawfully assembled at any district meeting, shall have power, by a majority of the votes of those present, to direct the sale of the former site or lot, and the buildings thereon and appurtenances, or any part thereof, at such price and upon such terms as they shall deem proper; and any deed duly executed by the trustees of such district, or a majority of them, in pursuance of such direction, shall be valid and effectual to pass all the estate or interest of such school district in the premises, and when a credit shall be directed to be given upon such sale for the consideration money, or any part thereof, the trustees are hereby authorized to take in their corporate name such security by bond

Proceed-
ings for
the sale of
lot and
appurte-
nances.

and mortgage or otherwise, for the payment thereof, as they shall deem best, and shall hold the same as a corporation, and account therefor, to their successors in office and to the district, in the manner they are now required by law to account for moneys received by them ; and the trustees of any such district for the time being may, in their name of office, sue for and recover the moneys due and unpaid upon any security so taken by them or their predecessors.

Moneys arising from the sale to be applied to new houses, etc.

§ 22. All moneys arising from any sale made in pursuance of the last preceding section, shall be applied to the expenses incurred in procuring a new site, and in removing or erecting thereon a school-house, and improving and furnishing such site and house, and their appendages, so far as such application shall be necessary ; and the surplus, if any, shall be devoted to the purchase of school apparatus and the support of the school as the inhabitants at any annual meeting shall direct.

THIRD ARTICLE.

Of the qualification, election, choice and terms of office of district and neighborhood officers, and of vacancies in such offices.

Trustee, who may not hold the office of.

§ 23. No school commissioner or supervisor is eligible to the office of trustee, nor can either be a member of any board of education within his district or town ; and no trustee can hold the office of district clerk, collector or librarian.

District officer must reside in the district

§ 24. Every district and neighborhood officer must be a resident of his district and neighborhood, and qualified to vote at its meetings.

Terms of office.

§ 25. From one annual meeting to the next is a year, within the meaning of the following provisions: The term of office of a trustee of a neighborhood, and a sole trustee of a district is one year. The full term of a joint trustee is three years, but a joint trustee may be elected for one or two years, as herein provided. The term of office of all other district and neighborhood officers is one year. Every district and neighborhood officer shall hold his office

unless removed, during his term of office, and until his successor shall be elected or appointed.

§ 26. The terms of all officers elected at the first meeting of a newly erected neighborhood or district, except of a union free school district, shall expire on the second Tuesday of October, next thereafter.

Officers of
new
districts.

*§ 27. On the second Tuesday of October next after the erection of a district, at its first annual meeting, the electors shall determine by resolution, whether the district shall have one or three trustees, and if they resolve to have three trustees, shall elect the three for one, two and three years respectively, and shall designate by their votes, for which term each is elected; thereafter in such district, one trustee shall be elected at each annual meeting to fill the office of the outgoing trustee. The electors of any district having three trustees shall have power to decide by resolution, at any annual meeting, whether the district shall have a sole trustee or three trustees, and if they resolve to have a sole trustee, the trustee or trustees in office shall continue in office until their term or terms of office shall expire, and no election of a trustee shall be had in the district until the offices of such trustee or trustees shall become vacant by the expiration of their terms of office or otherwise, and thereafter but one trustee shall be elective for said district, until the electors of a district having one trustee shall determine at an annual meeting, by a two-thirds vote of the legal voters present thereat, to have three trustees; in which case they shall, upon the adoption of such resolution, proceed to elect three trustees in the same manner as provided in this section for the election of three trustees at the first annual meeting after the erection of a district; and thereafter in such district, one trustee shall be elected for three years, at each annual meeting, to fill the office of the outgoing trustee.

People to
select one
or three
trustees.

* As amended by chap. 173, Laws of 1878.

Clerk to
notify
persons
elected to
office.

*§ 28. It shall be the duty of the district clerk, and of the neighborhood clerk, or of any person who shall act as clerk at any district or neighborhood meeting, when any officer shall be elected, forthwith to give the person elected notice thereof in writing; and such person shall be deemed to have accepted the office, unless, within five days after the service of such notice, he shall file his written refusal of it with the clerk. The presence of any such person at the meeting which elects him to office, shall be deemed a sufficient notice to him of his election.

Collector
vacates his
office by
not execut-
ing bond.

§ 29. The collector vacates his office by not executing a bond to the trustees, as hereinafter required, and the trustees may supply the vacancy.

Vacancy
in office of
trustee,
how filled.

§ 30. In case the office of a trustee shall be vacated by his death, refusal to serve, incapacity, removal from the district or neighborhood, or by his being removed from the office, or in any other manner, and the vacancy be not supplied by a district or neighborhood meeting within one month thereafter, the supervisor of the town within which the school-house or principal school-house of the district is, or within which the neighborhood or any part thereof is, may, by a writing under his hand, appoint a competent person to fill it.

Neglect of
duty or
refusal to
serve
vacates
office.

§ 31. A trustee who publicly declares that he will not accept or serve in the office of trustee, or who refuses or neglects to attend three successive meetings of the board, of which he is duly notified, without rendering a good and valid excuse therefor to the other trustees, or trustee, where there are but two, vacates his office by refusal to serve.

Trustees
may fill
vacancies
in other
offices.

§ 32. Any vacancy in the office of district clerk, collector, or librarian, may be supplied by appointment under the hands of the trustees of the district, or a majority of them, and the appointees shall hold their respective offices until the next annual meeting of the district, and until others are elected and take their places.

Appoint-
ment to be
filed with

§ 33. Every appointment to fill a vacancy shall be forthwith filed, by the supervisor or trustees making

it, in the office of the district clerk, who shall immediately give notice of the appointment to the person appointed.

district clerk.

§ 34. Every person chosen or appointed to a school district office, who, being duly qualified to fill the same, shall refuse to serve therein, shall forfeit five dollars; and every person so chosen or appointed, who, not having refused to accept the office, shall willfully neglect or refuse to perform any duty thereof, shall by such neglect or refusal vacate his office and shall forfeit the sum of ten dollars. These penalties are for the benefit of common schools of the town.

Penalty for refusal to serve or neglect of duty.

§ 35. But the supervisor of the town wherein any such person resides may accept his written resignation of the office, and the filing of such resignation and acceptance in the office of the district clerk shall be a bar to the recovery of either penalty in the last preceding section mentioned; or such resignation may be made to and accepted by a district meeting.

Supervisor may accept the resignation.

It may be made to a district meeting.

FOURTH ARTICLE.

Of the duties of the neighborhood clerk, and of the district clerk and librarian.

§ 36. The neighborhood clerk shall keep a record of the proceedings of his neighborhood, and of the reports of the trustees, and deliver the same to his successor. In case such neighborhood shall be annexed to a district within the state, its records shall be filed in the office of the clerk of such district.

Duty of neighborhood clerk

§ 37. It shall be the duty of the clerk of each school district:

Clerk of school district, his duties.

1. To record the proceedings of his district in a book to be provided for that purpose by the district, and to enter therein true copies of all reports made by the trustees to the school commissioner.

2. To give notice, in the manner prescribed by the sixth section of this title, or by the inhabitants, pursuant to such section, of the time and place of holding special district meetings called by the trustees.

3. To affix a notice in writing of the time and place of any adjourned meeting, when the meeting shall

have been adjourned for a longer time than one month, in at least four of the most public places of such district, at least five days before the time appointed for such adjourned meeting.

4. To give the like notice of every annual district in meeting.

* 5. To give notice immediately to every person elected or appointed to office of his election or appointment; and also to report to the town clerk of the town in which the school-house of his district is situated, the names and post-office address of such officers, under a penalty of five dollars for neglect in each instance.

6. To notify the trustees of every resignation duly accepted by the supervisor.

7. To keep and preserve all records, books and papers belonging to his office and to deliver the same to his successor. For a refusal or neglect so to do, he shall forfeit fifty dollars for the benefit of the district, to be recovered by the trustees.

8. In case his district shall be dissolved, to obey the order of the commissioner or commissioners as to depositing the books, papers and records of his office in the town clerk's office.

9. To attend all meetings of the board of trustees when notified and keep a record of their proceedings in a book provided for that purpose.

10. To call special meetings of the inhabitants whenever all the trustees of the district shall have vacated their office.

§ 38. The librarian, subject to the provisions of this act, shall have the charge and supervision of the district library.

FIFTH ARTICLE.

Of the pupils and scholars.

§ 39. Common schools in the several school districts of this state shall be free to all persons over five and under twenty-one years of age residing in the district, as hereinafter provided; but non-resi-

Schools
free to
pupils over
five and
under
twenty-
one years.
Non-resi-
dents may
be admit-
ted.

dents of a district, if otherwise competent, may be admitted into the school of a district, with the written consent of the trustees, or of a majority of them, upon such terms as the trustees shall prescribe.

§ 40. If a school district include a portion of an Indian reservation, whereon a school for Indian children has been established by the superintendent of public instruction, and is taught, the school of the district is not free to Indian children resident in the district or on the reservation, nor shall they be admitted to such school except by permission of the superintendent.

No Indian
pupils
admitted

§ 41. No teacher is a qualified one, within the meaning of this act, unless he possesses an unannulled diploma granted to him by the state normal school or an unrevoked and unannulled certificate of qualification given to him by the superintendent of public instruction, or an unexpired certificate of qualification given to him by the school commissioner within whose district he is employed, or by the school officer of the city or village in which he is employed, authorized by special act to grant such certificate.

Qualified
teachers,
what con-
stitutes.

* § 42. No part of the school moneys apportioned to a district can be applied or permitted to be applied to the payment of the wages of an unqualified teacher nor can his wages, or any part of them, be collected by a district tax.

Unquali-
fied teach-
ers cannot
be paid by
public mo-
ney or
district
tax.

§ 43. Any trustee who applies, or directs, or consents to the application of any such money to the payment of an unqualified teacher's wages, thereby commits a misdemeanor; and any fine imposed upon him therefor shall be for the benefit of the common schools of the county.

Their
payment
to unquali-
fied teach-
ers a mis-
demeanor.

§ 44. Teachers shall keep, prepare and enter in the books provided for that purpose, the school lists and accounts of attendance hereinafter mentioned, and shall be responsible for their safe keeping and delivery to the clerk of the district at the close of their engagements or terms.

Teachers
to keep
lists of
attend-
ance.

*As amended by sec. 12, chap. 406, Laws of 1867.

SIXTH ARTICLE.

*Of the trustees, their powers and duties : and, herein,
of school taxes and annual reports.*

Trustees
hold dis-
trict prop-
erty as a
corporation.

A sole
trustee
has the
same
power as
a board.

Trustees
must meet
for official
action.

Any member
of the
board may
call a
meeting.

When
there are
vacancies
in the
board, the
remaining
trustee or
trustees
may act.

Powers
and duties
of trustees.
To call
special
meetings

§ 45. All property which is now vested in, or shall hereafter be transferred to, the trustee or trustees of a district, for the use of schools in the district, shall be held by him or them as a corporation.

§ 46. A sole trustee of the district shall have all the powers, and be subject to all the duties, liabilities and penalties conferred and imposed by law upon or against any trustee or trustees, or the majority of the trustees, of a district.

§ 47. The trustees of a district compose a board, and when two only meet to deliberate upon a matter, and the third, if notified, does not attend, or the three meet and deliberate thereon, the conclusion of two upon the matter, and their order, act or proceeding in relation thereto, shall be as valid as though it were the conclusion, order, act or proceeding of the three; and a recital of the two in their minute of the conclusion, act or proceeding, or in their order, act or proceeding of the fact of such notice, or of such meeting or deliberation, shall be conclusive evidence thereof. A meeting of the board may be ordered by any member thereof, by giving not less than twenty-four hours' notice of the same.

§ 48. While there is one vacancy in the office of trustee, the two trustees have all the powers and are subject to all the duties and liabilities of the three. And while there are two such vacancies, the trustee in office shall have all the powers and be subject to all the duties and liabilities of the three, as though he were a sole trustee.

*§ 49. It shall be the duty of the trustees of every school district, and they shall have power :

1. To call special meetings of the inhabitants of such districts whenever they shall deem it necessary and proper.

* As amended by sec. 9, chap. 647, Laws of 1865, and by sec. 13, chap. 406, Laws of 1867.

2. To give notice of special, annual and adjourned meetings in the manner prescribed in the sixth section of this title, if there be no clerk of the district, or he be absent or incapable of acting, or shall refuse to act.

To give notice in certain cases.

3. To make out a tax list of every district tax voted by any such meeting, or authorized by law, containing the names of all the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant, set opposite to his name.

To make out tax lists.

4. To annex to such tax list a warrant,* directed to the collector of the district, for the collection of the sums in such list mentioned.

To issue warrant for collection.

†5. To purchase or lease a site for the district school-house or school-houses, as designated by a meeting of the district, and to build, hire or purchase such school-house as may be so designated, and to keep in repair and furnish such school-house with necessary fuel and appendages, and to pay the expense thereof by tax, but such expense shall not exceed fifty dollars in any one year, unless authorized by the district or by law.

To purchase or lease sites, etc.

6. To have the custody and safe keeping of the district school-house or houses, their sites and appurtenances.

To have custody of the school-house.

7. When thereto authorized, by a meeting of the district, to insure the school-house or school-houses, and their furniture, and the school apparatus, in some company created by or under the laws of this state and to comply with the conditions of the policy, and raise the premiums by a district tax.

To insure school-house, etc.

8. To insure the district library in such a company in a sum fixed by a district meeting, and to raise the premium by a district tax, and comply with the conditions of the policy.

To insure library.

9. To contract with and employ all teachers in the district school or schools; but no person who is within two degrees of relationship by blood or marriage to any such trustee shall be so employed,

Teachers must not be within two degrees of relationship to trustees.

*For form of warrant, see appendix.

†As amended by sec. 13, chap. 406, Laws of 1887.

except with the approval of two-thirds of the voters of such district present and voting upon the question at an annual or special meeting of the district. Any person employed in disregard of the foregoing provision shall have no claim for wages against the district, but may enforce the specific contract made against the trustee or trustees consenting to such employment as individuals.

Payment
of teach-
ers' wages.

* 10. To pay toward the wages of such teachers as are qualified, the public moneys apportioned to the district and legally applicable thereto, by giving them orders on the supervisor therefor, and to collect as herein provided, the residue of such wages by district tax.

* 11. To divide such public moneys apportioned to the district, whenever authorized by a vote of their district, into two or more portions for each year; to assign and apply one of such portions to each term during which a school shall be kept in such district, for the payment of teachers' wages during such term; and to collect the residue of such wages not paid by the proportion of public money allotted for that purpose, by district tax as herein provided.

To pay
library
money for
teachers'
wages,
when less
than \$3.

12. If the library money apportioned to the district be less than three dollars, to apply it to the payment of teachers' wages.

13. To draw upon the supervisor for the school and library moneys, in the manner and form prescribed by subdivisions one and two of section six of title four of this act.

* 14. After having paid toward the wages of such teachers as are qualified, the public moneys of the district legally applicable thereto, by giving them orders on the supervisor therefor, to collect the residue of such wages by a district tax, or, if the same shall have been already collected, to give such teacher an order on the district collector for the balance of his or her wages still remaining unpaid.

† § 50. The trustees may expend, in necessary and proper repairs of each school-house under their

* As amended by sec. 13, chap. 406, Laws of 1867.

† As amended by sec. 19, chap. 567, Laws of 1875.

charge, a sum not exceeding twenty dollars in any one year; and they may also expend a sum not exceeding fifty dollars in the erection of necessary out-buildings, where the district is wholly unprovided with such buildings, upon a vote of a district meeting. They may also make any repairs, and abate any nuisances, pursuant to the direction of the school commissioner, as hereinbefore provided, and provide fuel, pails, brooms and other implements necessary to keep the school-house or houses clean and make them reasonably comfortable for use, and not provided for by a vote of the district; and may also provide for building fires and cleaning the school-room by arrangement with the teacher or otherwise. They shall provide the bound blank-books for the entering of their accounts and the keeping of the school lists, the records of the district, and the proceedings of district and trustee meetings. Whenever it shall be necessary for the due accommodation of the children of the district, they may hire temporarily any room or rooms for the keeping of schools therein; but the trustees shall have no power to purchase maps, globes, or other school apparatus, unless instructed to do so by the vote of a district meeting. Any expenditure made, or liability incurred, in pursuance of this section, shall be a charge upon the district.

Repairs.

Cleaning
school
house, etc.

§ 51. When trustees are required or authorized by law, or by a vote of their district, to incur any expense for such district, and when any expenses incurred by them are made, by express provision of law, a charge upon such district, they may raise the amount thereof by tax in the same manner as if the definite sum to be raised had been voted by a district meeting.

May raise
any legal
sum by
tax.

§ 52. The trustees, or any one of them, if not forbidden by another, may freely permit the school-house, when not in use for the district school, to be used by persons assembling therein for the purpose of giving and receiving instruction in any branch of education or learning, or in the science or practice of music.

School-
house by
consent of
trustee
may be
used for
instruc-
tion in any
branch of
learning or
music.

Trustees
to procure
account
books, etc.

* § 53. They shall procure two bound blank books for the district, and when necessary, others in their place. In one of them, at or before each annual district meeting, they shall enter at large, and sign a statement of all movable property belonging to the district, and their accounts of all moneys, received or drawn for or paid by them, and they shall deliver this book to their successors. In the other, the teachers shall enter the names of the pupils attending school, their ages, the names of the persons who send them, and the number of days each pupil attends ; and also the facts and the dates of each inspection of the school by the school commissioner or other official visitor, and any other facts and in such form as the superintendent of public instruction shall require ; and each teacher shall, by his oath or affirmation, verify his entries in such book, and the entries shall constitute the school lists from which the average daily attendance shall be determined ; and such oath or affirmation may be taken by the district clerk, but without charge. Until the teacher shall have so made and verified such entries, the trustees shall not draw on the supervisor for any portion of his wages.

Teacher
must keep
lists and
verify re-
cord, and
trustees
shall not
pay teach-
er until
record is
verified.

To notify
the treas-
urer and
superin-
tendent of
money
withheld
by super-
visor.

To render
an account
of all mon-
eys receiv-
ed and
paid, etc.

§ 54. If any portion of the moneys apportioned to the district shall not be paid, by the supervisor, upon the due requirement of the trustees, they shall forthwith notify the treasurer of the county, and the superintendent of public instruction, of the fact.

§ 55. The trustees shall, once in each year, render to the district, at its annual district meeting, a just, full and true account in writing, under their hands, of all moneys received by them respectively for the use of the district, and of the manner in which the same shall have been expended, and showing to which of them an unexpended balance, or any part thereof, is chargeable ; and of all drafts or orders made by them upon the supervisor, collector, or other custodian of moneys of the district ; and a full statement of all suits and proceedings brought by or against them, and of every special matter touching the condition of the district.

§ 56. An outgoing trustee shall forthwith pay, to his successor or any other trustee of the district in office, any such unexpended balance, or part of such balance, remaining in his hands.

Out-going trustee to pay any balance to his successor.

§ 57. Every trustee who shall refuse or neglect to render such account shall forfeit twenty-five dollars. Every trustee who shall neglect or refuse to pay over any balance so found in his hands, shall forfeit twenty-five dollars. These penalties are for the benefit of the schools of the district, and shall be sued for by the supervisor of the town in which the school-house, or school-house longest owned or held by the district is.

Penalty for refusal or neglect to render account.

§ 58. By a willful neglect or refusal to render such account, a trustee also forfeits any unexpired term of his office, and becomes liable to the trustees for any district moneys in his hands.

Forfeits his office, etc.

§ 59. The trustees in office shall sue for and recover any district moneys in the hands of any former trustee, or of his personal representatives, and apply them to the use of the district.

Trustees to sue any former trustee.

* § 60. The trustees of each school district shall, between the first and second Tuesdays of October in each year make and direct to the school commissioner a report in writing, dated on the first day of October of the year in which it is made, and shall sign and certify it, and deliver it to the clerk of the town in which the school-house of the district is situated; and every such report shall certify:

To report annually to commissioner between first and second Tuesdays of October in each year.

1. The whole time any school has been kept in their district during the year ending on the day previous to the date of such report, and distinguishing what portion of the time such school has been kept by qualified teachers, and the whole number of days, including holidays, in which the school was taught by qualified teachers.

Items in annual report.

2. The amount of their drafts upon the supervisor, for the payment of teachers' wages during such year, and the amount of their drafts upon him for the purchase of books and school apparatus during such year, and the manner in which such moneys have been expended.

*3. The number of children taught in the district school or schools during such year by qualified teachers, and the sum of the days' attendance of all such children upon the school.

4. The number of children residing in the district on the last day of September previous to the making of such report, between the ages of five and twenty-one, and the names of the parents or other persons with whom such children respectively reside, and the number of children residing with each.

5. The amount of money paid for teachers' wages, in addition to the public money paid therefor, the amount of taxes levied in said district for purchasing school-house sites, for building, hiring, purchasing, repairing and insuring school-houses, for fuel, for district libraries, or for any other purpose allowed by law, and such other information in relation to the schools and the district as the superintendent of public instruction may, from time to time, require.

Children
included
in trustees'
report.

§ 61. The annual reports of trustees of school districts, of children residing in their district, shall include all over five and under twenty-one years of age who shall, at the date of such report, actually be in the district, composing a part of the family of their parents or guardians, or employers, if such parents, guardians or employers reside at the time in such district, although such residence be temporary; but such report shall not include children belonging to the family of any person who shall be an inhabitant of any other district in this state in which such children may by law be included in the reports of its trustees; nor any children who are supported at a county poor-house or an orphan asylum; nor any Indian children residing on reservations where schools provided by law for their education are taught.

Joint dis-
trict to re-
port to
each com-
missioner.

§ 62. Where a school district lies in two or more counties, its trustees shall make such an annual report for each part of it lying in a different county,

and file each in the office of the clerk of the town in which the part of the district to which it especially relates lies; and such reports shall be in the form and contain all such special matters as the superintendent of public instruction shall from time to time prescribe.

§ 63. The trustee of every separate neighborhood shall every year, within the time aforesaid, in like manner, make his annual report to the school commissioner, and file it in the office of the clerk of the town of which the neighborhood is a part. Such report shall specify the whole amount of public moneys received during the year, and from what public officer, and the manner in which it was expended; the whole number of such children as can be included in the district trustees' report residing in the neighborhood on the last day of September previous to the making of the report; and any other matters which the superintendent of public instruction may require.

Separate neighborhood, report of its trustee.

§ 64. Every trustee of a school district or separate neighborhood, who shall willfully sign a false report to a school commissioner with the intent of causing such school commissioner to apportion to his district or neighborhood a larger sum than its just proportion of school moneys; or in the case of a trustee of a separate neighborhood, with intent to procure from the state superintendent of public instruction a larger allowance to the neighborhood, shall for each offense forfeit the sum of twenty-five dollars, and shall also be deemed guilty of a misdemeanor. Such penalties, and any fines which shall be imposed for the misdemeanor, are for the benefit of the common schools of the county.

False report, and penalty for.

SEVENTH ARTICLE.

Of the assessment of district taxes, and the collection of such taxes; and herein of the collector, his powers, duties and liability.

§ 65. Within thirty days after a tax shall have been voted by a district meeting, the trustees shall assess it, and make out the tax list therefor, and annex

Assessment of taxes by trustees.

Two or more taxes may be included under one warrant.

thereto their warrant* for its collection. But they may at the same time assess two or more taxes so voted, and any tax or taxes they are authorized to raise without such vote, and make out one tax list and one warrant for the collection of the whole. They shall also prefix to their tax list a heading showing for what purpose the different items of the tax is levied.

Tax lists, how made out.

† § 66. School district taxes shall be apportioned by the trustees upon all real estate within the boundaries of the district which shall not be by law exempt from taxation, except as hereinafter provided, and such property shall be assessed to the person or persons or corporation owning or possessing the same at the time such tax list shall be made out, but land lying in one body and occupied by the same person either as owner or agent for the same principal, or as tenant under the same landlord, shall, though situated partly in two or more school districts, be taxable in that one of them in which such occupant resides. This rule shall not apply to land owned by non-residents of the district, and which shall not be occupied by an agent, servant or tenant residing in the district. Such unoccupied real estate shall be assessed as non-resident, and a description thereof shall be entered in the tax list. The trustees shall also apportion district taxes upon all persons residing in the district, and upon all corporations liable to taxation therein, for the personal estate owned by them and liable to taxation. They shall also apportion the same upon non-resident stockholders in banks or banking associations situated in their districts for the amount of stock owned by them therein, and upon individual bankers doing business in their district in accordance with the provisions of chapter seven hundred and sixty-one of the laws of eighteen hundred and sixty-six.

Valuation, how ascertained.

§ 67. The valuations of taxable property shall be ascertained, so far as possible, from the last assessment roll of the town, after revision by the assessors; and no person shall be entitled to any reduction in

*For form of warrant, see close of this pamphlet.

† As amended by sec. 20, chap. 567, Laws of 1875. See law in relation to the taxation of railroad companies, in the appendix; also, law in relation to taxation of bank shares, in the appendix.

the valuation of such property, as so ascertained, unless he shall give notice of his claim to such reduction to the trustees of the district before the tax list shall be made out.

§ 68. Where such reduction shall be duly claimed and where the valuation of taxable property cannot be ascertained from the last assessment roll of the town, the trustees shall ascertain the true value of the property to be taxed from the best evidence in their power, giving notice to the persons interested, and proceeding in the same manner as the town assessors are required by law to proceed in the valuation of taxable property.

Of reduction of valuation.

* § 69. When a district embraces parts of more than one town, it shall be the duty of the supervisors of such towns so in part embraced, upon receiving a written notice from the trustee or trustees of such district, or from three or more persons liable to pay taxes upon real estate therein, to meet at a time and place to be named in such notice, which time shall not be less than five or more than ten days from the service thereof, and a place within the bounds of the towns so in part embraced, and proceed to inquire and determine whether the valuation of real property upon the several assessment rolls of said towns are substantially just as compared with each other, so far as said districts are concerned, and if ascertained not to be so, they shall determine the relative proportion of taxes that ought to be assessed upon the real property of the parts of such district lying in different towns, and the trustees of such district shall thereupon assess the proportion of any tax thereafter to be raised, according to the determination of such supervisors, until new assessment rolls of the towns shall be perfected and filed, using the assessment rolls of the several towns to distribute the said proportion among the persons liable to be assessed for the same. In cases when such supervisors shall be unable to agree, they shall summon a supervisor from some adjoining town, who shall unite in such inquiring, and the finding of a majority shall be the determination of such meeting.

Equalization of valuations.

* As amended by sec. 21, chap. 567, Laws of 1875.

Person
working
land on
shares lia-
ble, or by
his agent
or servant.

§ 70. Any person working land under a contract for a share of the produce of such land, shall be deemed the possessor, so far as to render him liable to taxation therefor in the district where such land is situate.

§ 71. Every person owning or holding any real property within any school district, who shall improve and occupy the same by his agent or servant, shall, in respect to the liability of such property to taxation, be considered a taxable inhabitant of such district, in the same manner as if he actually resided therein.

Of tenant
at will,
etc., liabil-
ity of the
owner.

§ 72. Where any district tax, for the purpose of purchasing a site for a school-house, or for purchasing or building, keeping in repair, or furnishing such school-house with necessary fuel and appendages, shall be lawfully assessed, and paid by any person on account of any real property whereof he is only tenant at will, or for three years, or for a less period of time, such tenant may charge the owner of such real estate with the amount of the tax so paid by him, unless some agreement to the contrary shall have been made by such tenant.

When ex-
empt from
tax for
school-
house.

§ 73. Every taxable inhabitant of a district who shall have been, within four years, set off from any other district without his consent, and shall, within that period, have actually paid in such other district, under a lawful assessment therein, a district tax for building a school-house, shall be exempted by the trustees of the district where he shall reside from the payment of any tax for building a school-house therein.

Taxes on
non-resi-
dent
lands.

§ 74. When any real estate within a district so liable to taxation, shall not be occupied and improved by the owner, his servant or agent, and shall not be possessed by any tenant, the trustees of any district at the time of making out any tax list by which any tax shall be imposed thereon, shall make and insert in such tax list a statement and description of every such lot, piece or parcel of land so owned by non-residents therein, in the same manner as required by law from town assessors in making out the assessment roll of their towns; and if any such lot is known

to belong to an incorporated company liable to taxation in such district, the name of such company shall be specified, and the value of such lot or piece of land shall be set down opposite to such description, which value shall be the same that was affixed to such lot or piece of land in the last assessment roll of the town; and if the same was not separately valued in such roll, then it shall be valued in proportion to the valuation which was affixed in the said assessment roll to the whole tract of which such lot or piece shall be part.

Incorporated companies, etc.

* § 75. If any tax on the real estate of a non-resident, mentioned in the tax list delivered to the collector, or the taxes upon non-resident stockholders in banking associations organized under the laws of Congress, shall be unpaid at the time he is required by law to return his warrant, he shall deliver to the trustees of such district an account of the taxes so remaining due, containing a description of the lots and pieces of land upon which such taxes were imposed, as the same were stated in his tax list, together with the amount of the tax assessed on each, and, upon making oath before any justice of the peace, or judge of any court of record, that the taxes mentioned in any such account remain unpaid, and that after diligent efforts he has been unable to collect the same, he shall be credited by said trustees with the amount thereof.

Collector to return uncollected taxes: method of procedure.

§ 76. Upon receiving any such account from the collector, the trustees shall compare it with the original tax list, and, if they find it to be a true transcript, they shall add to such account their certificate, to the effect that they have compared it with the original tax list and found it to be correct, and shall immediately transmit the account, affidavit, and certificate, to the treasurer of the county.

Trustees shall send it to treasurer of county.

§ 77. Out of any moneys in the county treasury, raised for contingent expenses, the treasurer shall pay to the trustees the amount of the taxes so returned as unpaid.

Treasurer shall pay the taxes, and lay the account before the board of supervisors, who shall levy tax, etc.

* As amended by sec. 22, chap. 567, Laws of 1875.

County treasurer to lay the account before the supervisors: their powers and duties thereon.

*§ 78. Such account, affidavit and certificate shall be laid by the county treasurer before the board of supervisors of the county, who shall cause the amount of such unpaid taxes with seven per cent of the amount in addition thereto, to be levied upon the lands of non-residents on which the same were imposed; and if imposed upon the lands of any incorporated company, then upon such company; and when collected, the same shall be returned to the county treasurer to reimburse the amount so advanced, with the expenses of collection; and if imposed upon the stock of a non-resident stockholder in a banking association organized under the laws of congress, then, the same, with seven per cent of the amount in addition thereto, shall be a lien upon any dividends thereafter declared upon such stock, and upon notice by the board of supervisors to the president and directors of such bank, of such charge upon such stock, the president and directors shall thereafter withhold the amount so stated from any future dividends upon such stock, and shall pay the same to the collector of the town duly authorized to receive the same.

Any person may make payment before said levy.

Proceedings as for county taxes.

§ 79. Any person whose lands are included in any such account may pay the tax assessed thereon to the county treasurer, at any time before the board of supervisors shall have directed the same to be levied.

§ 80. The same proceedings in all respects shall be had for the collection of the amount so directed to be raised by the board of supervisors as are provided by law in relation to county taxes; and, upon a similar account, as in the case of county taxes of the arrears thereof uncollected, being transmitted by the county treasurer to the comptroller, the same shall be paid on his warrant to the treasurer of the county advancing the same; and the amount so assumed by the state shall be collected for its benefit, in the manner prescribed by law in respect to the arrears of county taxes upon land of non-residents; or if any part of the amount so assumed consisted of a tax upon any incorporated company, the same

proceedings may also be had for the collection thereof as provided by law in respect to the county taxes assessed upon such company.

*§ 81. The warrant for the collection of a district tax shall be under the hands of the trustees, or a majority of them, with or without their seals; and it shall have the like force and effect as a warrant issued by a board of supervisors to a collector of taxes in the town; and the collector to whom it may be delivered for collection shall be thereby authorized and required to collect, from every person in such tax list named, the sum set opposite to his name, or the amount due from any person or persons specified therein, in the same manner that collectors are authorized to collect town and county charges.

Warrant,
form and
effect of.

† § 82. A warrant for the collection of a tax voted by the district shall not be delivered to the collector until the thirty-first day after the tax was voted. A warrant for the collection of any tax not so voted may be delivered to the collector whenever the same is completed.

Delivery of
the war-
rant.

‡ § 83. Within such time, not less than ten days, as the trustees shall allow him for the purpose, the collector, before receiving the first warrant for the collection of money, shall execute a bond to the trustees, with one or more sureties, to be approved by a majority of the trustees, in such amount as the district meeting shall have fixed, or if such meeting shall not have fixed the amount, then in such amount as the trustees shall deem reasonable, conditioned for the due and faithful execution of the duties of his office.

Collectors
to execute
a bond.

§ 84. The collector, on the receipt of a warrant for the collection of taxes, shall give notice to the tax payers of the district, by publicly posting written or printed, or partly written and partly printed notices in at least three public places in such district, one of which shall be on the outside of the front door of the school-house, stating that he

Collector
of taxes to
give cer-
tain no-
tices.

* As amended by sec. 18, chap. 406, Laws of 1867.

† As amended by sec. 19, chap. 406, Laws of 1867.

‡ As amended by sec. 24, chap. 567, Laws of 1875.

! As amended by chap. 33, Laws of 1877.

has received such warrant and will receive all such taxes as may be voluntarily paid to him, within two weeks from the time of posting said notice. Such collector shall also give a like notice, either personally or by mail, at least ten days previous to the expiration of the two weeks aforesaid, to the ticket agent at the nearest station of any railroad corporation assessed for taxes, upon the tax list delivered to him with the aforesaid warrant, and no school collector shall be entitled to recover from any railroad corporation more than one per cent fees on the taxes assessed against such corporations, unless notice shall have been given as aforesaid, and in case the whole amount of taxes shall not be so paid in, the collector shall forthwith proceed to collect the same. He shall receive for his services on all sums paid in as aforesaid, one per cent, and upon all sums collected by him after the expiration of the time mentioned, five per cent, except as hereinbefore provided, and in case a levy and sale shall be necessarily made by such collector, he shall be entitled to traveling fees, at the rate of ten cents per mile, to be computed from the school-house in such district.

Fees.

Warrant
may be ex-
ecuted in
any other
town, etc.

* § 85. Any collector to whom any tax list and warrant may be delivered for collection may execute the same in any other district or town in the same county, or in any other county where the district is a joint district and composed of territory from adjoining counties, in the same manner and with the like authority as in the district in which the trustees issuing the said warrant may reside, and for the benefit of which said tax is intended to be collected; and the bail or sureties of any collector, given for the faithful performance of his official duties, are hereby declared and made liable for any moneys received or collected on any such tax list and warrant.

Trustees
may sue
for unpaid
taxes in
certain
cases.

† § 86. If the sum or sums of money, payable by any person named in such tax list or rate bill, shall not be paid by him or collected by such war-

*As amended by sec. 20, chap. 406, Laws of 1867.

†As amended by sec. 25, chap. 567, Laws of 1875.

rant within the time therein limited, it shall and may be lawful for the trustees to renew such warrant in respect to such delinquent person ; or in case such person shall not reside within their district at the time of making out a tax list, or shall not reside therein at the expiration of such warrant, or in case the property assessed be real estate belonging in an incorporated company, and no goods or chattels can be found whereon to levy the tax, the trustees may sue for, and recover the same in their name of office.

* § 87. Whenever the trustees of any school district shall discover any error in a tax list made out by them, they may, with the approbation and consent of the superintendent of public instruction, after refunding any amount that may have been improperly collected on such tax list, if the same shall be required by him, amend and correct such tax list, as directed by the superintendent, in conformity to law ; and whenever more than one renewal of a warrant for the collection of any tax list may become necessary in any district, the trustees may make such further renewal, with the written approbation of the supervisor of any town in which a school-house of said district shall be located, to be indorsed upon such warrant.

Trustees may correct error in tax list by consent of superintendent.

If more than one renewal must have consent of supervisor

§ 88. The collector shall keep in his possession all moneys received or collected by him by virtue of any warrant, to be by him paid out upon the order of a majority of the trustees ; and he shall report in writing at the annual meeting, all his collections and disbursements, and shall pay over to his successor in office, when he has duly qualified and given bail, all moneys in his hands belonging to the district.

Custody of moneys by the collector.

Shall report at annual meeting.

§ 89. If by the neglect of any collector any moneys shall be lost to any school district, which might have been collected within the time limited in the warrant delivered to him for their collection, he shall forfeit to such district the amount of the moneys thus lost, and shall account for and pay over the same to the trustees of such district, in the same manner as if they had been collected.

Collector to make up any loss.

*As amended by sec. 22, chap. 406, Laws of 1867.

Trustees
to sue for
recovery
of money
in his
hands.

§ 90. For the recovery of all such forfeitures, and of all balances, in the hands of the collector, which he shall have neglected or refused to pay to his successor, the trustees, in their name of office, shall have their remedy upon the official bond of the collector, or any action and any remedy given by law; and they shall apply all such moneys, when recovered, in the same manner as if paid without suit.

TITLE VIII.

OF SCHOOL DISTRICT LIBRARIES, AND THE APPLICATION OF LIBRARY MONEYS.

* SECTION 1. The taxable inhabitants of each school district in the state shall have power, when lawfully assembled in any district meeting, to levy a tax on the district, not exceeding in any one year the sum of fifty dollars, for the purchase of such books as they shall direct for the district library, and such further sum as they may deem necessary for the purchase of a book-case. All books and cases which may have been or shall be purchased with moneys raised by such taxes, or with moneys apportioned to the district for library purposes, and all books which have been given to and accepted by the trustees for the library, shall compose the library of the district.

† § 2. The sum of fifty thousand dollars, directed to be distributed to the several school districts of this state, by the fourth section of chapter two hundred and thirty-seven of the laws of eighteen hundred and thirty-eight, shall continue to be applied to the purchase of books for the district libraries.

Library
money
when to be
applied to
apparatus,
and when
to teach-
ers' wages.

§ 3. But whenever the number of volumes in the district library of any district numbering over fifty children between the ages of five and sixteen, shall exceed one hundred and twenty-five, or of any district numbering fifty children or less between the said ages, shall exceed one hundred volumes, the inhab-

* As amended by sec. 26, chap. 567, Laws of 1875.

† As amended by sec. 27, chap. 567, Laws of 1875.

itants of the district qualified to vote therein may, at a special or annual meeting duly notified for that purpose, by a majority of votes, appropriate the whole or any part of the library money belonging to the district for the current year to the purchase of maps, globes, blackboards, or other scientific apparatus for the use of the school; and in every district having the required number of volumes in the district library, and the maps, globes, blackboards and other apparatus aforesaid, the said moneys, with the approbation of the superintendent of public instruction, may be applied to the payment of qualified teachers' wages.

§ 4. When the library money apportioned to a district in any year shall be less than three dollars, the trustees may apply it in payment of qualified teachers' wages.

If less than \$3, may be paid for teachers' wages.

§ 5. The trustees of every school district shall be trustees of the library of such district, and the property of all books therein, and of the case and other appurtenances thereof, shall be deemed to be vested in such trustees so as to enable them to maintain any action in relation to the same. It shall be their duty to preserve such books and keep them in repair; and the expenses incurred for that purpose may be included in any tax list to be made out by them as trustees of a district, and added to any tax voted by a district meeting, and shall be collected and paid over in the same manner. The librarian of any district library shall be subject to the directions of the trustees thereof, in all matters relating to the preservation of the books and appurtenances of the library, and may be removed from office by them for willful disobedience of such directions or for any willful neglect of duty.

Trustees to have custody of library.

§ 6. Trustees shall be liable to their successors, and the librarian shall be liable to the trustees, for any neglect or omission of their respective duties, by which any book shall be lost, destroyed or damaged, to the amount of such damage and the value of the book so destroyed or lost.

Liability for books lost or injured.

§ 7. All moneys, recovered under the last preceding section, and all moneys received upon any policy

of insurance procured upon the library, and all fines and penalties imposed by or in pursuance of this title, shall be applied, by the trustees, in the purchase of books for, and in the reparation and care of the library.

§8. Any two or more adjoining districts, with the consent of all the commissioners of the school commissioner districts within which they lie, may, by a majority of votes in their several districts, unite their libraries, and apply their library moneys and funds to the care, reparation and augmentation of their joint library so formed. All the trustees of such districts shall be trustees of such library, with all the powers, duties and liabilities conferred and imposed by this title upon the trustees of a library of a district, and the librarian shall be appointed by them, and have the powers and be subject to the duties and liabilities conferred and imposed by this title upon the librarian of a district; but upon the question of his appointment or removal, and upon any other question which may arise in the board of trustees, the trustee or trustees of each district shall have one vote only. All the districts owning such library shall be considered as a school district, and the library as a school district library, within the meaning of the subsequent provisions of this title.

§9. The agreement forming a joint library may be terminated by the votes of all the several districts that made it, or by the votes of any one or more of them less than the whole, provided a majority of the school commissioners within whose districts the school districts lie, advise and consent thereto, or the superintendent of public instruction so order.

§10. When such an agreement shall be dissolved, the trustees of the several districts (the trustee or trustees of each district having only one vote) shall divide the library, and all the joint funds on hand, including all fines and penalties incurred, among the several districts; and if they cannot agree, then such division shall be made by the commissioners within

whose districts the school districts lie, or by some officer or person selected by the superintendent of public instruction.

§ 11. The general regulations respecting the preservation of school district libraries, the delivery of them by librarians and trustees to their successors in office, the use of them by the inhabitants of the district, the number of volumes to be taken by any one person at any one time or during any term, the periods of their return, the fines and penalties that may be imposed by the trustees of such libraries for not returning, for losing or destroying any of the books therein, or for soiling, defacing or injuring them, heretofore framed by the superintendent of public instruction, are continued in force, and he may, from time to time, amend, annul or add to them, and shall, from time to time, furnish printed copies of the regulations in force, and of such amendments, annulments and additions to the trustees of such libraries; and all such regulations shall be obligatory upon all persons and officers having charge of such libraries, or using or possessing any of the books thereof. Such fines may be recovered in an action of debt, in the name of the trustees of any such library, of the person on whom they are imposed, unless such person be a minor; in which case they may be recovered of the parent or guardian of such minor, unless notice in writing shall have been given by such parent or guardian to the trustees of such library, that they will not be responsible for any books delivered to such minor. And persons with whom such minors reside shall be liable, in the same manner and to the same extent, in cases where the parent of such minor does not reside in the district.

§ 12. The superintendent of public instruction, whenever he may deem proper, may require the trustees of any such library to make to him or to the school commissioner, a report showing the contents and condition of the library, the fines imposed, and any other information which he may deem proper touching the library, or its management, and shall prescribe the form, contents and authentication

Former regulations in force, and may be revised, etc., by superintendent.

Of minors using library.

Superintendent may require report.

Teacher
may be
called up-
on to as-
sist.

of such report. And may impose it as a duty upon the teacher employed in any district, under the direction of the trustees, to assist them in making such examination, and when such direction is given, the teacher may close the school one day for the purpose of making such examination, and the same shall not be accounted as lost time.

§ 13. If any such trustees willfully neglect or refuse to make any such report, the superintendent shall cause all library moneys to be withholden from the district until the report be made and considered by him, and such moneys shall, if he see cause, be forfeited by the district, in which case they shall be apportioned among the school districts of the county in which the library is situated, other than such school district. And any trustee or trustees, through whose neglect or refusal such moneys shall be lost to the district, shall forfeit and pay to the district twice the amount of such moneys, for the benefit of the library of the district, and such forfeiture may be recovered by his or their successors in office.

§ 14. The superintendent, whenever thereto requested by the trustees of any district school library, may select the library, or books for the library of the district, and cause the same to be delivered to the clerk of the county.

§ 15. The act entitled "an act to provide for the distribution of standard works of American authors among the libraries of district schools," passed April twelfth, eighteen hundred and fifty-six, is hereby repealed.

TITLE IX.

OF UNION FREE SCHOOLS.

SECTION 1. Whenever fifteen persons entitled to vote at any meeting of the inhabitants of any school district in the state, shall sign a call for a meeting, to be held for the purpose of determining whether a union free school shall be established therein, in conformity with the provisions of this title, it shall be

the duty of the trustees of such district, within ten days after such call shall have been presented to them, to give public notice that a meeting of the inhabitants of such district, entitled to vote thereat, will be held for such purpose as aforesaid, at the school-house, or other more suitable place, in such district, on a day and at an hour in such notice to be specified, not more than twenty days after the publication of such notice. If the trustees shall refuse to give such notice, or shall neglect to give the same for twenty days, the superintendent of public instruction may authorize and direct any inhabitant of said district to give the same. The qualifications of the inhabitants, entitled to vote at such meetings as now by law expressed, shall be sufficiently set forth in the notice aforesaid.

When superintendent may give notice.

Qualification of voters.

§ 2. Whenever such district shall correspond wholly or in part with an incorporated village, in which there shall be published a daily or weekly newspaper, the notice aforesaid shall be given by posting at least five copies thereof, severally in various conspicuous places in said district, at least twenty days prior to such meeting, and by causing the same to be published once a week for three consecutive weeks before such meeting, in all the newspapers published in said district. In other districts the said notice shall be given by posting the same as aforesaid, and in addition thereto, the trustees of such district shall authorize and require any taxable inhabitant of the same, to notify every other inhabitant (qualified to vote as aforesaid), of such meeting, to be called as aforesaid, who shall give such notification in the manner and subject to the penalty prescribed in the case of the formation of a new school district by title seven of this act.

Formation of union free schools in incorporated villages.

In other districts.

§ 3. The reasonable expense of such notices, and of their publication and service, shall be chargeable upon the district, in case a union free school is established by the meeting so convened, to be levied and collected by the trustees, as in cases of taxes now levied for school purposes; but in the event that

Expense of notices, how paid.

such union free school shall not be established, then the said expense shall be chargeable upon the inhabitants signing the call, jointly and severally, to be sued for if necessary in any court having jurisdiction of the same.

Union free
schools of
two or
more
districts.

*§ 4. Whenever fifteen persons, entitled as aforesaid, from each of two or more adjoining districts, shall unite in a call for a meeting of the inhabitants of such districts, to determine whether such districts shall be consolidated by the establishment of a union free school therefor and therein, it shall be the duty of the trustees of such districts, or a majority of them, to give like public notice of such meeting, at some convenient place within such districts, and as central as may be, within the time, and to be published and served in the manner set forth in the second section of this title, in each of such districts. The reasonable expenses of preparing, publishing and serving such notices shall be chargeable upon the union free school district, and be collected by tax, if a union free school shall be established pursuant to such call but otherwise the signers of the call shall be jointly and severally liable for such expenses. The superintendent of public instruction may order such meeting under the conditions and in the manner prescribed in the first section of this title.

Meetings,
how or-
ganized.

May be ad-
journed
ten days.

Majority
vote to
determine
as to union
free
schools.

†§ 5. Any such meeting, held as aforesaid, shall be organized by the appointment of a chairman and secretary, and may be adjourned from time to time, by a majority vote, provided that such adjournment shall not be for a longer period than ten days, and whenever any such meeting, at which not less than fifteen persons entitled to vote thereat shall, by the affirmative vote of a majority present and voting, determine to establish a union free school in said district, pursuant to such notice, it shall thereupon be lawful for such meeting to proceed to the election, by ballot, of not less than three, nor more than nine trustees, who shall, by the order of such meeting, be divided into three several classes; the first to hold until one,

* As amended by sec. 15, chap. 647, Laws of 1865.

† As amended by sec. 2, chap. 50, Laws of 1876.

the second until two, and the third until three, years from the second Tuesday in October coincident with or following, except in the cases in the next section provided for; and when the trustees so elected shall enter upon their office, the office of any existing trustee or trustees shall cease, except for the purposes stated in section eleven of title six of this act. The said trustees and their successors in office shall constitute the board of education of and for the union free school district for which they are elected, and the designation of such district as union free school district number —, of the town of —, shall be made by the school commissioner having jurisdiction of the district; and the said board shall have the name and style of the board of education of — (adding the designation aforesaid); copies of said call, minutes of said meeting or meetings, duly certified by the chairman and secretary thereof, shall be by them, or either of them, transmitted and deposited, one to and with the town clerk, one to and with the school commissioner or commissioners in whose jurisdiction said districts are located, and one to and with the superintendent of public instruction; but when at any such meeting the question as to the establishment of a union free school shall not be decided in the affirmative as aforesaid, then all further proceedings at such meeting, except a motion to reconsider or adjourn, shall be dispensed with, and no such meeting shall be again called within one year thereafter.

* § 6. Whenever said board of education shall be constituted for any district or districts whose limits correspond with those of any incorporated village or city, the trustees so elected shall, by the order of such meeting, be divided into three several classes: the first class to serve until one, the second until two, and the third until three years after the day of the next charter election in such village or city, and their regular term of service shall be computed from the several days of such charter elections, and not from the second Tuesday in October. And thereafter there

Election
of trus-
tees, and
term of
service.

Board of
education,
how con-
stituted.

Copies of
proceed-
ings to-
be certified
and filed.

* NOTE — In relation to election of officers in districts having more than 300 children of school age, see chap. 248, Laws of 1878, in the Appendix.

shall be annually elected in such villages and cities, by separate ballot, to be indorsed "school trustees," in the same manner as the charter officers thereof, trustees of the said union free schools to supply the places of those whose terms by the classification aforesaid are about to expire.

Boards of
education
created
bodies cor-
porate.

*§ 7. The said boards of education are hereby severally created bodies corporate, and each shall, at its first meeting, and at each annual meeting thereafter, elect one of their number president. They may, with the advice and consent of a majority of the legal voters entitled to vote on questions of taxation, to be had at an annual meeting of the inhabitants, appoint a clerk to the board. Such appointed clerk must be a resident of the district, and a person other than a trustee or a teacher in the employ of the board. The clerk so appointed shall be the general librarian of the district, and also perform all the clerical and other duties pertaining to his office. For his services he shall be entitled to receive a salary, which shall not be greater than twenty-five cents a year for each scholar, to be computed from the actual average daily attendance for the previous year, as set forth in the annual report to the school commissioner, or less, as in the best judgment of said legal voters to be had at such annual meeting; such consent and approval not to be for a longer period of time than one year. In case no provision is made at an annual meeting of the inhabitants for the appointment and payment of a clerk, then and in that case the board will appoint one of their own number to act as clerk. In districts other than those whose limits correspond with those of any city or incorporated village, said board shall have power to appoint one of the taxable inhabitants of their district treasurer, and another collector of the moneys to be raised within the same for school purposes, who shall severally hold such appointments during the pleasure of the board. Such treasurer and collector shall each, and within ten days after notice in writing of his appointment,

Clerk, ap-
pointment
of, etc.

Salary.

Districts
outside
cities and
villages, ap-
pointment
of treas-
urer and
collector
for.

*As amended by chap. 161, Laws of 1877. This section (7) does not apply to the towns of Cortlandt and White Plains, Westchester county.

duly served upon him, and before entering upon the duties of his office, execute and deliver to the said board of education a bond, with such sufficient penalty and sureties as the board may require, conditioned for the faithful discharge of the duties of his office. And in case such bond shall not be given within the time specified, such office shall thereby become vacant and said board shall thereupon, by appointment, supply such vacancy.

Bonds of,
etc.

Vacancies,
etc.

§ 8. The corporate authorities of any incorporated village or city, in which any such union free school shall be established, shall have power and it shall be their duty, to raise, from time to time, by tax, to be levied upon all the real and personal property in said city or village, as by law provided for the defraying of the expenses of its municipal government, such sum or sums as the board of education established therein shall declare necessary for the furtherance of any of the powers vested in them by law. The sums so declared necessary shall be set forth in a detailed statement in writing, addressed to the corporate authorities by the board of education, giving the various purposes of anticipated expenditure, and the amount necessary for each ; and the said corporate authorities shall have no power to withhold the sums so declared to be necessary for teachers' wages and the ordinary contingent expenses of supporting the school or schools of said district.

§ 9. In case the corporate authorities shall refuse to provide for any or all of the other purposes of expenditure declared necessary in the statement aforesaid, they shall communicate in writing to the said board of education their objections to each and every expenditure which they refuse to allow, and thereupon the said board of education shall cause the said communication to be published six times in at least one paper published or circulating in such district, and the said corporate authorities may, at any time, reconsider their action in refusing to allow such expenditures, or any of them, or may allow such other sums for any or all of such expendi-

tures as the board of education in any subsequent or modified statement may recommend. The annual meeting of the board of education of every union free school district shall be held on the third Tuesday of October in each year.

Powers of
annual and
special
meetings.

§ 10. A majority of the voters of any union free school district other than those whose limits correspond with an incorporated city or village, present at any annual or special district meeting, duly convened, may authorize such acts, and vote such taxes as they shall deem expedient for making additions, alterations or improvements to or in the sites or structures belonging to the district, or for the purchase of other sites or structures, or for the erection of new buildings, or for buying apparatus or fixtures, or for paying the wages of teachers and the necessary expenses of the school, or for such other purpose relating to the support and welfare of the school as they may, by resolution, approve; and they may direct the moneys so voted to be levied in one sum, or by installments; and the board of education shall make out their tax list, and attach their warrant thereto, in the manner provided in article seven of title seven of this act, for the collection of school district taxes, and shall cause such taxes or such installments to be collected at such times as they shall become due. No vote to raise money shall be rescinded, nor the amount thereof be reduced at any subsequent meeting, unless the same be done within ten days after the same shall have been first voted.

All moneys
to be raised
by tax,
and not by
rate bill.

§ 11. Any moneys required to pay teachers' wages in a union free school, or in the academical department thereof, after the due application of the school moneys thereto, shall be raised by tax, and not by rate bill.

Every such
district a
school dis-
trict.

§ 12. Every union free school district shall, for all the purposes of the apportionment and distribution of school moneys, be regarded and recognized as a school district.

Board of
education,
their
powers.
To make
by-laws.

§ 13. The said board of education of every union free school district shall severally have power:

1. To pass such by-laws as they may deem proper for the regulation and exercise of their lawful business and powers.

2. To establish such rules and regulations concerning the order and discipline of the school or schools, in the several departments thereof, as they may deem necessary to secure the best educational results.

To regulate discipline of the school

3. To grade and classify the school or schools of the district, and to regulate the admission of pupils and their transfer from one class or department to another, as their scholarship shall warrant.

To grade and classify.

4. To prescribe the text-books to be used in the schools, and to compel a uniformity in the use of the same, and to furnish the same to pupils out of any moneys provided for that purpose.

To prescribe and furnish text-books.

5. To take charge and possession of the school-houses, sites, lots, furniture, books, apparatus, and all school property within their respective districts; and the title of the same shall be vested respectively in said board of education, and the same shall not be subject to taxation for any purpose.

To have charge of all properties.

6. To take and hold for the use of the said schools or of any department of the same, any real estate transferred to it by gift, grant, bequest or devise, or any gift, legacy or annuity, of whatever kind, given or bequeathed to the said board, and apply the same or the interest or proceeds thereof, according to the instructions of the donor or testator.

To hold real estate.

7. To have, in all respects, the superintendence, management and control of said union free schools, and to establish in the same an academical department, whenever in their judgment the same is warranted by the demand for such instruction; to receive into said union free schools any pupils residing out of said districts, and to regulate and establish the tuition fees of such non-resident pupils in the several departments of said schools, to provide fuel, furniture, apparatus and other necessities for the use of said schools, and to appoint such librarians as they may, from time to time, deem necessary.

To establish an academical department.

*8. To contract with and employ qualified teachers in the several departments of instruction, in all not less than one for every fifty pupils attending

To contract with and employ teachers and remove them.

such schools; to remove them at any time for neglect of duty or for immoral conduct, and to pay the wages of such teachers out of the moneys appropriated for that purpose.

To fill vacancies in the board.

9. To fill any vacancy which may happen in said board by reason of the death, removal or refusal to serve of any member or officer of said board ; and the person so appointed in the place of any such member of the board shall hold his office until the next election of trustees, as by this act provided.

To remove members of the board.

10. To remove any member of their board for official misconduct. But a written copy of all charges made of such misconduct shall be served upon him at least ten days before the time appointed for a hearing of the same ; and he shall be allowed a full and fair opportunity to refute such charges before removal.

To have all power of trustees of school districts and of trustees of academies.

11. And generally to possess all the powers and privileges, and be subject to all the duties in respect to the schools, or the common school departments in any union free school in said districts, which the trustees of common schools now possess or are subject to, not inconsistent with the provisions of this title ; and to enjoy, whenever an academical department shall be by them established, all the immunities and privileges now enjoyed by the trustees of academies in this state.

May call special meetings.

§ 14. In union free school districts other than those whose limits correspond with any city or incorporated village, the board of education shall have power to call special meetings of the inhabitants, in the manner provided in section six of title seven of this act, for calling special meetings of districts by trustees, and they shall give notice of the time and place of holding the annual school district meeting, which shall be held on the second Tuesday of October in each year.

Time of annual meeting.

Board to report estimates of expenses to annual meeting.

§ 15. It shall be the duty of the board at the annual meeting of the district, besides any other report or statement required by law, to present a detailed statement in writing of the amount of money which will be required for the ensuing year for school purposes exclusive of the public moneys, specifying the

several purposes for which it will be required, and the amount for each, but nothing in this section contained shall be construed to prevent the board from presenting such statement at any special meeting called for the purpose, nor from presenting a supplementary and amended statement or estimate at any time.

May make such statement at any time.

§ 16. After the presentation of such statement, the question shall be taken upon voting the necessary taxes to meet the estimated expenditures, and when demanded by any voter present, the question shall be taken upon each item separately, and the inhabitants may increase the amount of any estimated expenditures or reduce the same, except for teachers' wages, and the ordinary contingent expenses of the school or schools.

Powers of inhabitants thereupon

§ 17. If the inhabitants shall neglect or refuse to vote the sum or sums estimated necessary for teachers' wages, after applying thereto the public school moneys, and other moneys received or to be received for that purpose, provided such estimate shall be for no more than one teacher for each fifty pupils attending such school, or if they shall neglect or refuse to vote the sum or sums estimated necessary for ordinary contingent expenses, the board of education may levy a tax for the same, in like manner as if the same had been voted by the inhabitants.

When board may levy tax without vote of the inhabitants.

§ 18. If any question shall arise as to what are ordinary contingent expenses the same may be referred to the superintendent of public instruction, by a statement in writing, signed by one or more of each of the opposing parties upon the question, and the decision of the superintendent shall be conclusive.

Superintendent to decide any question as to what are "contingent expenses."

§ 19. It shall be the duty of each of the said boards of education, elected pursuant to the provisions of this title, to have a regular meeting at least once in each quarter, and at such meetings to appoint one or more committees, to visit every school or department under the supervision of said board, and such committees shall visit all said schools at least twice in each quarter, and report at the next regular meeting of the board on the condition and prospects thereof.

Board to meet once in each quarter.

Visit schools, etc.

Expendi-
ture of
money .

§ 20. It shall also be the duty of said boards, respectively, to have reference in all their expenditures and contracts to the amount of moneys which shall be appropriated, or subject to their order or drafts, during the current year, and not to exceed that amount. And said boards shall severally apply all the moneys apportioned to the common school districts under their charge, to the departments below the academical; and all moneys from the literature fund or otherwise, appropriated for the support of the academical department, to the latter departments.

Moneys to
be paid in-
to vil-
lage or city
treasury.

§ 21. All moneys raised for the use of the union free schools in any city or incorporated village, or apportioned to the same from the income of the literature, common school or United States deposit funds, or otherwise, shall be paid into the treasury of such city or village, to the credit of the board of education therein; and the funds so received into such treasury shall be kept separate and distinct from any other funds received into the said treasury. And the officer having the charge thereof shall give such additional security for the safe custody thereof as the corporate authorities of such city or village shall require. No money shall be drawn from such funds, credited to the several boards of education, unless in pursuance of a resolution or resolutions of said board, and on drafts drawn by the president and countersigned by the secretary, payable to the order of the person or persons entitled to receive such money, and stating on their face the purpose or service for which such moneys have been authorized to be paid by the said board of education.

Moneys,
how drawn

Payment,
disburse-
ments, and
account-
ing for
school
moneys.

§ 22. All moneys raised for the use of said union free schools, other than those whose limits correspond with those of any cities and incorporated villages, or apportioned from the income of the literature or common school or United States deposit funds, or otherwise, shall be paid to the respective treasurers of the said several boards of education entitled to receive the same, and be by them applied to the uses of said several boards, who shall annually render their accounts of all

moneys received and expended by them for the use of said schools, with every voucher for the same, and certified copies of all orders of the said board touching the same, to the school commissioner of the town in which the principal school-house of the district is located.

§ 23. Every academical department, established as aforesaid, shall be under the visitation of the regents of the university, and shall be subject, in its course of education and matters pertaining thereto (but not in reference to the buildings or erections in which the same is held), to all the regulations made in regard to academies by the said regents. In such departments the qualifications for the entrance of any pupil shall be as high as those established by the said regents for participation in the literature fund of any academy of the state under their supervision.

Academical department subject to regents.

Qualifications of pupils.

§ 24. Whenever a union free school shall be established under the provisions of this title, and there shall exist within its district an academy, the board of education, if thereto authorized by a vote of the voters of the district, may adopt such academy as the academical department of the district, with the consent of the trustees of the academy, and thereupon the trustees, by a resolution to be attested by the signatures of the officers of the board, and filed in the office of the clerk of the county, shall declare their offices vacant, and thereafter the said academy shall be the academical department of such union free school.

May adopt existing academy, procedure therefor.

§ 25. Every union free school district, in all its departments, shall be subject to the visitation of the superintendent of public instruction. He is charged with the general supervision of its board of education and their management and conduct of all its departments of instruction. And every board of education shall annually, between the first and fifteenth day of October, make, to the commissioner having jurisdiction, and deposit in the town clerk's office, a report for the preceding school year, of all matters and things which trustees of a school district are required to report, and of all such other matters

Subject to superintendent of public instruction.

Board shall report annually to school commissioner.

Superintendent may require special report.

and things as the superintendent shall, from time to time, require; and shall also, whenever thereto required by the superintendent of public instruction, report fully to him upon any particular matter or thing; and such reports shall be in such form, and so authenticated, as the superintendent shall, from time to time, require.

Superintendent may remove any member of the board.

§ 26. For cause shown, and after giving notice of the charge and opportunity of defense, the superintendent of public instruction may remove any member of a board of education. Willful disobedience of any lawful requirement of the superintendent, or a want of due diligence in obeying such requirement, is cause of removal.

This title applies to schools established under the act of 1853.

§ 27. The provisions of this title shall apply to all union free schools heretofore organized pursuant to the provisions of chapter four hundred and thirty-three of the laws of eighteen hundred and fifty-three.

TITLE X.

OF SCHOOLS FOR COLORED CHILDREN.

Colored schools in cities and villages.

SECTION 1. The school authorities of any city or incorporated village, the schools of which are or shall be organized under title nine of this act or under special acts, may, when they shall deem it expedient, establish a separate school or separate schools for the instruction of children and youth of African descent, resident therein, and over five and under twenty-one years of age; and such school or schools shall be supported in the same manner and to the same extent as the school or schools supported therein for white children, and they shall be subject to the same rules and regulations, and be furnished with facilities for instruction equal to those furnished to the white schools therein.

Colored schools in union free school district.

§ 2. The trustees of any union school district, or of any school district organized under a special act, may, when the inhabitants of any school district shall so determine, by resolution at any annual meeting,

or at a special meeting called for that purpose, establish a separate school or separate schools for the instruction of such colored children resident therein, and such schools shall be supported in the same manner, and receive the same care, and be furnished with the same facilities for instruction as the white schools therein.

§ 3. No person shall be employed to teach any of such schools who shall not, at the time of such employment, be legally qualified.

Teacher
must be
legally
qualified.

§ 4. Section one hundred and forty-seven of chapter four hundred and eighty, laws of eighteen hundred and forty-seven, is hereby repealed.

Former act
repealed.

TITLE XI.

OF TEACHERS' INSTITUTES.

SECTION 1. It shall be the duty of every school commissioner, at least once in each year, to organize in his own district, or, in concert with one or more commissioners in the same county, to organize in and for the combined districts, a teachers' institute, and to induce, if possible, all the teachers in his district to be present and take part in its exercises.

Commis-
sioner to
hold an in-
stitute.

§ 2. The commissioner or commissioners, subject always to the advice and direction of the superintendent of public instruction, shall, in such form and manner as may be deemed most effectual, give public notice to the teachers of the district, or combined districts, and to all others who may desire to become such, of the time when and the place where the institute will be organized.

To give
due notice,
etc.

§ 3. The superintendent of public instruction shall advise and co-operate with the school commissioners in fixing the times and places of holding the teachers' institute; and he shall have power to employ, or cause the school commissioners to employ, suitable persons, at a reasonable compensation, to conduct and teach the institutes; and he shall visit, or cause to be visited by persons employed in the department of public instruction, such and so many of the in-

Superin-
tendent to
advise,
employ
teachers,
etc.

To establish the bases of appointment.

stitutes as he possibly can, for the purpose of examining into the course and manner of instruction pursued, and of rendering such assistance as he may find expedient; and he shall establish the bases upon which the yearly appropriation for the support of teachers' institutes shall be distributed to the several institutes, and the term or terms during which the same may be held, having reference, in the establishment of such regulations, to the number of teachers in the county, district or combined districts, and in attendance at the institute, to the length of time during which they shall be held, to the facilities for attendance upon them, and to local disadvantages requiring especial consideration.

Superintendent may establish regulations.

§ 4. The superintendent of public instruction may establish such regulations in regard to certificates of qualification or recommendation, which may be issued by school commissioners, as will in his judgment furnish incentives and encouragement to teachers to attend the institutes; and the closing of his school by a teacher for the time during which an institute shall be held in and for the county or school commissioner district in which his school is, and which institute he shall have attended during the time for which he closed his school, shall not work a forfeiture of the contract under which he is teaching; and he shall be allowed to make up for the time spent in attending the institute, by teaching the school the same length of time immediately at the end of the term for which he contracted to teach.

Teachers may close school and not vitiate contract.

Trustees to allow teacher time at institute.

* § 5. The trustees of every school district are hereby directed to give the teacher or teachers employed by them the whole of the time spent by such teacher or teachers in attending at any regular session or sessions of an institute in a county embracing the school district, or a part thereof, without deducting any thing from his or their wages for the time so spent; and whenever the trustees' report shows that a district school has been supported for the full time required by law, including the time

* As amended by sec. 23, chap. 406, Laws of 1867.

spent by the teacher or teachers in their employ in attendance upon such institute, and that the trustees have given the teacher or teachers the time of such absence, and have not deducted any thing from his or their wages on account thereof, the superintendent of public instruction may include the district in his apportionment of the state school moneys, and direct that it be included by the school commissioner or commissioners in their apportionment of school moneys, provided always that such school district be in all other respects entitled to be included in such apportionment.

Time spent
by teacher
at institute
to be re-
ported.

§ 6. The treasurer shall pay, on the warrant of the comptroller, to the order of any one or more of the school commissioners, such sum or sums of money as the superintendent of public instruction shall certify to be due to them for expenses in holding a teachers' institute; and, upon the like warrant and certificate, to the order of any persons employed by the superintendent to conduct and teach any teachers' institute, his reasonable compensation as certified by the superintendent.

Mode of
payment.

§ 7. The school commissioner or commissioners by whom any teachers' institute shall be organized, shall transmit to the superintendent of public instruction a catalogue of the names of all persons who shall have attended such institute, with such other statistical information, in such form and within such time as may be prescribed by said superintendent.

To trans-
mit cata-
logue and
report to
the super-
intendent.

TITLE XII.

ON APPEALS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

SECTION 1. Any person conceiving himself aggrieved in consequence of any decision made :

Any person
may ap-
peal.

1. By any school district meeting ;

From
what.

2. By any school commissioner or school commissioners and other officers, in forming or altering, or refusing to form or alter, any school district, or in refusing to apportion any school moneys to any such district or part of a district ;

3. By a supervisor in refusing to pay any such moneys to any such district;

4. By the trustees of any district in paying or refusing to pay any teacher, or in refusing to admit any scholar gratuitously into any school;

Ibid.

5. By any trustees of any school district library concerning such library, or the books therein, or the use of such books;

Ibid.

6. By any district meeting in relation to the library;

Ibid.

7. By any other official act or decision concerning any other matter under this act, or any other act pertaining to common schools, may appeal to the superintendent of public instruction, who is hereby authorized and required to examine and decide the same; and his decision shall be final and conclusive, and not subject to question or review in any place or court whatever.

Superintendent's
decision
final.

Power of
superin-
tendent.

§ 2. The superintendent, in reference to such appeals, shall have power:

1. To regulate the practice therein;

2. To determine whether an appeal shall stay proceedings, and prescribe conditions upon which it shall or shall not so operate;

3. To decline to entertain, or dismiss, an appeal, when it shall appear that the appellant has no interest in the matter appealed from, and that the matter is not a matter of public concern, and that the person injuriously affected by the act or decision appealed from is incompetent to appeal;

4. To make all orders, by directing the levying of taxes or otherwise, which may, in his judgment, be proper or necessary to give effect to his decision.

Superin-
tendent
shall file
papers.

Copies of
decision
may be at-
tested by
seal.

§ 3. The superintendent shall file, arrange in the order of time, and keep in his office, so that they may be at all times accessible, all the proceedings on every appeal to him under this title, including his decision and orders founded thereon; and copies of all such papers and proceedings, authenticated by him under his seal of office, shall be evidence equally with the originals.

TITLE XIII.

MISCELLANEOUS PROVISIONS.

SECTION 1. Whenever the share of school moneys or any portion thereof, apportioned to any town, school district or separate neighborhood, or any money to which a town, school district or separate neighborhood would have been entitled, shall be lost, in consequence of any willful neglect of official duty by any school commissioner, town clerk, trustees or clerks of school districts, the officer or officers guilty of such neglect shall forfeit to the town, school district or separate neighborhood so losing the same, the full amount of such loss with interest thereon.

School moneys, penalties for their loss.

§ 2. Where any penalty for the benefit of a school district, or of the schools of any school district, town, school commissioner district, or county, shall be incurred, and the officer or officers whose duty it is by law to sue for the same shall willfully and unreasonably refuse or neglect to sue for the same, such officer or officers shall forfeit the amount of such penalty to the same use, and it shall be the duty of their successor or successors in office to sue for the same.

Penalty for neglect to prosecute.

* § 3. Any person who shall willfully disturb, interrupt or disquiet any district school or school meeting in session, or any persons assembled, with the permission of the trustees of the district, in any district school-house, for the purpose of giving or receiving instruction in any branch of education or learning, or in the science or practice of music, shall forfeit twenty-five dollars, for the benefit of the school district.

Penalty for disturbing school or school meeting.

§ 4. It shall be the duty of the trustees of the district, or the teacher of the school, and he shall have power, to enter a complaint against such offender before any justice of the peace of the county, or the mayor or any alderman, recorder or other magistrate of the city wherein the offense was committed. The magistrate or other officer before whom the complaint

Procedure.

* As amended by sec. 24, chap. 406, Laws of 1867.

is made, shall thereupon by his warrant, directed to any constable or person, cause the person complained of to be arrested and brought before him for trial. If such person, on the charge being stated to him, shall plead guilty, the magistrate shall convict him; and, if he demands a trial by the magistrate, shall summarily try him; and, if he demands a trial by jury, the magistrate shall issue a venire, and impanel a jury for his trial, and he shall be tried in the same manner as in a court of special sessions.

Penalty.

§ 5. If any person convicted of the said offense do not immediately pay the penalty, with the costs of the prosecution, or give security to the satisfaction of the magistrate for the payment thereof within twenty days, the magistrate or other officer shall commit him to the common jail of the county, there to be imprisoned until the penalty and costs be paid, but not exceeding thirty days.

Actions
against
school
officers.

§ 6. In any action against a school officer or officers, including supervisors of towns, in respect of their duties and powers under this act, for any act performed by virtue of or under color of their offices, or for any refusal or omission to perform any duty enjoined by law, and which might have been the subject of an appeal to the superintendent, no costs shall be allowed to the plaintiff, in cases where the court shall certify that it appeared on the trial that the defendants acted in good faith. But this provision shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the superintendent.

*§ 7. Whenever the trustees of any school district or any school district officer or officers have been or shall be instructed by a resolution of the district at a meeting called for that purpose, to defend any action brought against them, or to bring or defend an action or proceeding touching any district property or claim of the district or involving its rights or interests, or to continue any such action or defense all their costs and reasonable expenses, as well as all costs and damages adjudged against them,

* As amended by chap. 174, Laws of 1878.

shall be a district charge and shall be levied by tax. If the amount claimed by them be disputed by a district meeting it shall be adjusted by the county judge of any county in which the district or any part of it is situated.

§ 8. Whenever such trustees or any school district officer shall have brought or defended any such action or proceeding, without any such resolution of the district meeting, and after the final determination of such suit or proceeding, shall present to any regular meeting of the inhabitants of the district an account in writing of all costs, charges and expenses paid by him or them, with the items thereof, and verified by his or their oath or affirmation, and a majority of the voters at such meeting shall so direct, it shall be the duty of the trustees to cause the same to be assessed upon and collected of the taxable property of said district, in the same manner as other taxes are by law assessed and collected; and when so collected, the same shall be paid over, by an order upon the collector, to the officer or officers entitled to receive the same; but this provision shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the superintendent of public instruction.

Action
without
direction
of district,
expenses
how paid.

*§ 9. Whenever an officer or officers mentioned in the last preceding section of this act shall have complied with the provisions of said section, and the inhabitants shall have refused to direct the trustees to levy a tax for the payment of the costs, charges and expenses therein mentioned, it shall be lawful for him or them then and there to give notice orally and publicly, that he will appeal to the county judge of the county, and in case of his disability to act in the matter by being disqualified or otherwise, then to the district attorney of the county in which the school-house of said district is located, from the refusal of said meeting to vote a tax for the payment of said claim, and the inhabitants may then and there, or at any subsequent district meeting, appoint one or more of the inhabitants of the district to pro-

When the
district re-
fuse, what
action.

* As amended by sec. 1, chap. 746, Laws of 1871.

tect the rights and interest of the district upon said appeal. And the officer or officers before mentioned shall thereupon, within ten days, serve upon the clerk of said district (or if there be no such clerk, upon the town clerk of the town) a copy of the aforesaid account, so sworn to, together with a notice, in writing, that on a certain day therein specified he or they intend to present such account to the county judge or to the district attorney, as the case may be, for settlement. And the clerk shall record such notice, together with the copy of the account, and the same shall be subject to the inspection of the inhabitants of the district. And it shall be the duty of the person or persons appointed by any district meeting for that purpose, to appear before the county judge or the district attorney, as the case may be, on the day mentioned in the notice aforesaid, and to protect the rights of the district upon such settlement; and the expenses incurred in the performance of this duty shall be a charge upon said district, and the trustees, upon presentation of the account of such expenses, with the proper voucher therefor, may levy a tax therefor, or add the same to any other tax to be levied by them; and their refusal to levy said tax for the payment of said expenses shall be subject to an appeal to the superintendent of public instruction.

*§ 10. Upon the appearance of the parties, or upon due proof of service of the notice and copy of the account, the county judge shall examine into the matter and hear the proofs and allegations propounded by the parties, and decide by order whether or no the account, or any and what portion thereof, ought justly to be charged upon the district, with costs and disbursements to such officer or officers, in his discretion, which costs and disbursements shall not exceed the sum of thirty dollars, and the decision of the county judge shall be final; but no portion of such account shall be so ordered to be paid which shall appear to such judge to have arisen from the willful neglect or misconduct of the claimant. The account, with the oath of the party claim-

* As amended by chap. 514, Laws of 1874.

ing the same, shall be prima facie evidence of the correctness thereof. The county judge may adjourn the hearing from time to time, as justice shall seem to require.

§ 11. It shall be the duty of the trustees of any school district, within thirty days after service of a copy of such order upon them or upon the district clerk, and notice thereof to them or any two of them, to cause the same to be entered at length in the book of records of said district, and to raise the amount thereby directed to be paid, by a tax upon the district, to be by them assessed and levied in the same manner as a tax voted by the district.

§ 12. For the support of the Indian schools, already established and which may be established, under authority of chapter seventy-one of the laws of eighteen hundred and fifty-six, the superintendent of public instruction, in his annual general apportionment of the state school moneys appropriated for the support of common schools, shall make an equitable apportionment, as provided by section six of title three of this act; and the moneys which shall be thus apportioned, and those which have been apportioned for their support, under authority of section four, chapter seventy-one of the laws of eighteen hundred and fifty-six, shall be paid out of the treasury for expenditures authorized by law and actually incurred in the support of such schools, upon the warrant of the superintendent, countersigned by the comptroller.

Indian
schools.

§ 13. The superintendent of public instruction, so soon as may be after the passage of this act, shall prepare and cause to be printed, and distribute among the school districts of the state, to each one copy, an edition of this statute, with brief annotations embodying such of the decisions of the courts of the state, and of the superintendents of common schools and the superintendents of public instruction as are applicable thereto, and such comments, explanations and instructions as he shall deem necessary or expedient, and the same shall be deposited with the district clerk, and kept by him for the use of the inhabitants.

Publica-
tion of
this stat-
ute, etc.

§ 14. All provisions of law repugnant to or inconsistent with the provisions of this act, are hereby repealed, saving always all rights of action vested under such prior provisions, and proceedings commenced for the assertion thereof; but nothing herein contained, unless it be so expressed, shall be construed, unless by inevitable implication, to revive any act or portion of an act heretofore repealed; nor to impair or in any manner affect or change any special law touching the schools or school system of any city or incorporated village of the state.

The two following paragraphs, amendatory of the General School Act, but not of any particular title thereof, were passed as sections 26 and 27, of chap. 406, Laws of 1867.

The rate bills heretofore authorized by special acts abolished.

Local tax of city cannot be increased.

Hereafter all moneys now authorized by any special acts to be collected by rate bill for the payment of teachers' wages, shall be collected by tax, and not by rate bill.

Nothing in this act contained shall be construed to authorize the common council of any city to increase the local city tax for the support of the schools therein, beyond the amounts they are now authorized by law to raise for local school purposes, and such local tax shall be reduced in such city, by an amount equal to the amount it shall receive by the additional tax authorized by this act, for the support of schools in the state generally.

APPENDIX.

*CHAP. 800.

AN ACT to provide for the appraisal of, and acquiring title to lands taken for or in addition to sites for district school-houses.

PASSED April 25, 1866 : three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. Land for the site of a district school-house, or additional land adjoining to and for the enlargement of an established site, not exceeding one acre, may be acquired in cases where the owner or owners thereof, or some of them, shall not consent to sell the same for such purpose, or the trustee or trustees of the district cannot agree with such owner or owners, or some of them, upon the price or value thereof, as follows :

Land, or additional land for site.

A petition shall be prepared for presentation to the county court of the county in which the land is situated, at some regular term thereof, signed by the trustee or trustees of the district, or a majority of them, setting forth that the inhabitants of the district have designated or desire to obtain the land for the site of a district school-house, or in addition to and for the enlargement of that already established

Mode of procedure.

* As amended by chap. 819, Laws of 1867, and chap. 329, Laws of 1871.

as such site, describing such land by its locality and by particular metes and bounds, stating the quantity thereof as nearly as may be, with the name or names, and place or places of residence of the owner or owners, and that the consent of such owner or owners, or some of them, to sell such land for said purpose, cannot be obtained, or that the trustee or trustees cannot agree with him or them, or some of them, upon a reasonable price therefor, and praying for the appointment of commissioners to appraise the same.

“ Said petition shall be filed in the office of the county clerk of the county in which the land is situated, and at the time of filing thereof, or at any time afterwards, the petitioners may cause a notice of the pendency of the proceedings to be filed in said office, which notice the county clerk shall file and record in the same manner that similar notices in actions in the supreme court are required to be filed and recorded ; which notice shall state the object of the proceeding, and contain a description of the land and the names of the parties affected thereby. And all persons who shall acquire in whatsoever way, any title to, interest in, lien or incumbrance upon said land, after the filing of the notice of the pendency of the proceedings as aforesaid, shall be bound and affected by said proceedings in the same manner and to the same extent as if they had been named in the petition as parties thereto ; and said persons shall also be bound in the same manner and to the same extent, by notice of the existence of said proceeding, whether notice of the pendency thereof has been filed or not. The petitioners may appear and prosecute such proceedings by an attorney.”

A copy of said petition with a notice thereto annexed of the time and place when and where the same will be presented to said county court, addressed to the owner or owners of the required lands, shall be served in all cases, except as hereinafter allowed, as follows : Upon each person to whom the notice is addressed, who resides in the county in which the land is situated, by delivering to each such person, or in case of his absence, by leaving at his

dwelling-house or usual place of abode or business, such copy and notice, at least thirty days before the day specified in the notice for the presentation of the petition. Upon each such person who shall reside out of such county, by depositing such copy and notice in one of the post-offices nearest to said land, directed to such person at his reputed place of residence, and paying the proper postage thereon, at least forty days before the day specified in the notice for the presentation of the petition, if such place of residence be within this state, and at least sixty days before that day if such place of residence be out of this state, except that if such place of residence be in the upper peninsula of Michigan, or in any state or territory of the United States west of the Mississippi river, except the states of Iowa, Missouri, Arkansas and Louisiana or any place out of the jurisdiction of the United States, then at least four months before such specified day of presentation. If any such owner or owners shall reside out of the state, and shall have an agent or attorney residing therein, authorized to convey or contract for the sale of his or their interest in said lands who shall not consent, or with whom the trustee or trustees cannot agree as aforesaid, then and in that case the service of the copy of petition and of notice aforesaid may be made upon such agent or attorney instead of upon such owner or owners, either personally or by depositing the same in a post-office as aforesaid, directed to such agent or attorney at his place of residence, and paying postage as aforesaid, the same number of days or months before the said specified day for the presentation of the petition, as if the service were upon such owner or owners, as hereinbefore required. If any such owner shall be an infant, under the age of twenty-one years, such service shall be made on his general guardian; if there be no such guardian, on the infant, if over fourteen years of age, and if under that age, on the person with whom such infant shall reside, in each case in the same mode, and the same number of days or months before the specified day for the presentation of the petition, as if the service were upon an adult.

Notice may
be served
on agent.

On guar-
dian.

If owner be
an idiot.

owner, according to the place of residence of such guardian, infant, or person with whom such infant resides, upon whom service is made. If any such owner shall be an idiot, or of unsound mind, service shall be made upon the committee of his person or estate ; or, if there be no such committee, then upon the person who shall have the care of such idiot or person of unsound mind, in the same mode and the same number of days before the presentation of the petition, as in other cases. In all other cases service of copies of the petition, of notices, appointments of guardians or committees, orders or other papers in the proceedings under this act, or in connection therewith, shall be made as the court in which the proceedings are had shall direct.

Owner may
appear in
person or
by attorney.

§ 2. On presenting such petition to the county court aforesaid, on the day specified for its presentation as aforesaid, with proof of service of a copy or copies thereof and notice, and of other papers as hereinbefore required, all persons whose estate or interest are to be affected by the proposed proceedings, relative to the land described in the petition, may appear in person or by attorney, or other proper representative, before the said court, and show cause against granting the prayer of the petitioners. The said court shall hear the proofs and allegations of the parties, and if no sufficient cause be shown against granting the prayer of the petitioners, shall make an order appointing three disinterested and suitable persons, residing in the same county, neither of whom shall be an inhabitant of the school district named in the petition, or interested in any taxable property therein, or who shall be within two degrees of relationship, by blood or marriage, to any owner of such taxable property, or to any owner of the land described in such petition, as commissioners to appraise the said land, and to award the compensation to be made to the owner or owners thereof for the same, for the purposes specified in said petition ; and the said court shall specify and appoint in such order the time and place within said school district, for the first meeting of said commissioners, and also

Courts to
appoint
commissioners by
an order.

the time and place, when and where said county court will receive the report of said commissioners of their proceedings and award in the premises, for confirmation.

§ 3. The said commissioners, before entering upon their duties, shall be sworn before some officer, authorized to administer oaths, that they will fairly and impartially view the land in question, hear the proofs and allegations of the parties interested, and make a just and reasonable award of the compensation to be paid by the school district for the said land to be appropriated for a site or part of a site for a district school-house. The said commissioners shall have power to issue subpoenas and administer oaths to witnesses, and a majority of them may adjourn the proceeding from time to time if necessary. They shall also view the land in question, hear the proofs and allegations of parties, reduce the testimony given, if any, to writing; and without unnecessary delay, they, or a majority of them, shall appraise the said land and determine and award the compensation which ought to be made therefor by said school district, to the party or parties owning the same. They shall make a written report of their proceedings and award in the case, signed by them, or a majority of them, which shall be accompanied by the minutes of the testimony taken by them, and shall deliver the same to the county judge of the county on or before the day named in the order appointing them, for receiving such report for confirmation. The said commissioners shall be entitled to two dollars per day for their services, which shall be a charge upon and be paid by the school district in whose behalf the land in question has been appraised by them as aforesaid.

Commissioners must be sworn.

Powers of commissioners.

Duty of commissioners.

Pay.

§ 4. On the day and at the time and place appointed in the order aforesaid for receiving such report, the county court aforesaid, on being satisfied of the regularity and fairness of the previous proceedings, shall make an order reciting the proceedings, giving a description of the land appraised, confirming the report and directing to whom the compensation awarded shall be paid, or where and with whom the

Court to make order on proceedings, and judge to give trustees a copy.

Trustees to
levy tax.

same shall be deposited. A certified copy of the last-mentioned order shall, without unnecessary delay, be delivered by the judge holding said county court to the trustee or trustees aforesaid, or to one of them, whose duty it shall be forthwith to cause the same to be recorded at the expense of the said school district, in the office of the county clerk of the county in which the land therein described is situated. The trustee or trustees are hereby authorized and directed, on the filing of said order with the county clerk as aforesaid, forthwith to levy a district tax for a sum sufficient to pay the compensation named in said award and the expense of recording said order.

§ 5. Upon said order being recorded as aforesaid, and upon the payment or deposit of the amount of compensation awarded for said land, all the right, title and interest of the owner and owners aforesaid, in and to the said land, shall vest in the school district in whose behalf the proceedings aforesaid were instituted; and the trustee or trustees of such district shall be entitled to enter upon, take possession of, occupy and use said land for the purpose set forth in their petition aforesaid; and all land acquired by any school district pursuant to the provisions of this act, shall be deemed to be taken for public use.

Proceeds,
how di-
vided.

§ 6. The proceeds of every such award shall be divided amongst the parties whose rights and interests shall have been sold, in proportion to their respective rights in the premises; and the share of such of the parties as are of full age shall be paid to them or their legal representatives by the commissioners, or shall be brought into court for their use.

§ 7. When any of such known parties are infants, the court may, in its discretion, direct the share of such infants to be paid over to the general guardian on proper security being filed, or to be invested in permanent securities at interest, in the name and for the benefit of such infants, or be deposited in some trust company or savings bank to abide the further order of the court.

§ 8. When any of the parties whose interests have been sold are absent from the state, or are not known or named in the proceedings, the court shall direct the shares of such parties to be invested in permanent securities at interest or to be deposited in some trust company or savings bank to abide the further order of the court, for the benefit of such parties, until claimed by them or their legal representatives.

When proceeds to be invested.

§ 9. When the proceeds of a sale belonging to any tenant in dower, or by the courtesy, or for life, shall be brought into court as hereinbefore directed, the court shall direct the same to be invested in permanent securities at interest, so that such interest shall annually be paid to the parties entitled to such estate during their lives respectively, unless such parties shall elect to accept a sum in gross in lieu thereof.

§ 10. The court may, in its discretion, require all or any of the parties, before they shall receive any share of the moneys arising from such sale, to give security to the satisfaction of such court to refund the said shares with interest thereon, in case it shall thereafter appear that such party was not entitled thereto.

§ 11. The amounts of all commissioners' fees, and of all expenses incurred by or in behalf of any school district, in pursuance of the provisions of this act, shall be a charge upon such district, and be levied and collected by tax in the same manner as other district taxes are levied and collected therein.

Expenses a charge on district.

* § 12. This act shall not apply to cities of more than thirty thousand inhabitants; nor shall it be lawful under this act to acquire title to less than the whole of any city or village lot, with the erections thereon, if any, nor to any premises occupied as a homestead by the owner or owners thereof, without the consent of such owner or owners; nor, beyond the corporate limits of cities, to any garden or orchard, or any part thereof, nor to any part of any yard or inclosure necessary to the use and enjoyment of buildings, or any fixtures or erections for the purposes of trade or

What lands may not be taken.

manufactures, without the consent of the owner or owners thereof.

Boards of
education,
when to be
trustees.

* 13. Boards of education in cities of not more than thirty thousand inhabitants are hereby clothed with all the powers of trustees under the act hereby amended, and the title to any and all lands acquired in any city, under the provisions of said act, shall vest in the board of education thereof, or such other corporate body as is by law vested with the title to the school lands in such city. But nothing in the act hereby amended contained shall be construed to limit or circumscribe the powers and duties heretofore lodged in such boards of education by law.

† The act hereby amended shall apply to union free school districts and to districts organized under special laws; and the trustees of such districts or the boards of education organized under special laws, shall be and are hereby clothed with all the powers vested in trustees under said act.

† Nothing in this act contained shall prejudice or impair any right acquired or proceeding had or instituted, under or by virtue of the act hereby amended.

* As amended by sec. 2, chap. 329, Laws of 1871.

† These two paragraphs are added by chap. 819, Laws of 1867.

* CHAP. 761.

AN ACT authorizing the taxation of stockholders of Banks, and the surplus funds of Savings Banks.

PASSED April 23, 1866.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. No tax shall hereafter be assessed upon the capital of any bank or banking association organized under the authority of this state, or of the United States, but the stockholders in such banks and banking associations shall be assessed and taxed on the value of their shares of stock therein; said shares shall be included in the valuation of the personal property of such stockholder, in the assessment of taxes at the place, town or ward where such bank or banking association is located, and not elsewhere, whether the said stockholder reside in said place, town or ward or not, but not at a greater rate than is assessed upon other moneyed capital in the hands of individuals in this state. And in making such assessment there shall also be deducted from the value of such shares such sum as is in the same proportion to such value as is the assessed value of the real estate of the bank or banking association, and in which any portion of their capital is invested, in which said shares are held, to the whole amount of the capital stock of said bank or banking association. And provided, further, that nothing herein contained shall be held or construed to exempt from taxation the real estate held or owned by any such bank or

Stockholders to be taxed on value of shares at place of business of bank.

Real estate of banks to be taxed.

*NOTE. Section 7 of this act repealed by sec. 56, chap. 371, Laws of 1875.

banking association ; but the same shall be subject to state, county, municipal and other taxation to the same extent and rate and in the same manner as other real estate is taxed.

Individual
bankers to
declare
amount of
capital and
shares of
partners.

§ 2. Every individual banker doing banking business under the laws of this state, is hereby required to declare upon oath before the assessor the amount of capital invested in such banking business, and each one hundred dollars of such capital for the purpose of this act, and for the purpose of taxation shall be held and regarded as one individual share in such banking business, and such shares are hereby declared to be personal property. If such banker have partners he shall declare upon oath before the assessor the number of shares held by each of them in such banking business, ascertained as above provided, and the shares so held by any partner shall be included in the valuation of his taxable property in the assessment of all taxes levied in the town, school district or ward where such individual banker is located, and not elsewhere ; and such individual banker shall pay the same and make the amount so paid a charge in the accounts with such partners ; and if such individual banker have no partners he shall be held to be sole owner of all the shares in such business of banking, and the same shall be included in the valuation of his personal property in the assessment of all taxes levied in the town, school district or ward where his bank is located, and not elsewhere.

§ 3. There shall be kept at all times in the office where the business of such bank or banking association, organized under the authority of this state or of the United States, shall be transacted, a full and correct list of the names and residences of all the stockholders therein, and of the number of shares held by each ; and such list shall be subject to the inspection of the officers authorized to assess taxes during the business hours of each day in which business may be legally transacted.

§ 4. Sections ten and eleven of chapter ninety-seven of the session laws of eighteen hundred and sixty-five are hereby repealed.

§ 5. When the owner of stock in any bank or banking association, organized under the laws of this state or of the United States, shall not reside in the same place where the bank or banking association is located, the collector and county treasurer shall, respectively, have the same powers as to collecting the tax to be assessed by this act, as they have by statute, when the person assessed has removed from the town, ward or county in which the assessment was made; and the county treasurer, receiver of taxes, or other officers authorized to receive said tax from the collector, may all or either of them have an action to collect the tax from the avails of the sale of his shares of stock, and the tax on the share or shares of said stock shall be and remain a lien thereon till the payment of said tax.

Non-resident
bankers,
tax how
collected.

§ 6. For the purpose of collecting such taxes, and in addition to any other laws of this state, not in conflict with the constitution of the United States, relative to the imposition of taxes, it shall be the duty of every such bank or banking association, and the managing officer or officers thereof, to retain so much of any dividend or dividends belonging to such stockholders as shall be necessary to pay any taxes assessed in pursuance of this act, until it shall be made to appear to such officers that such taxes have been paid.

Bank officers
may
retain divi-
dend.

CHAP. 694.

AN ACT in relation to the valuation of the property of railroad companies in school districts, for the purpose of taxation.

PASSED April 23, 1867 ; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Town assessors to apportion railroad assessments.

SECTION 1. It shall be the duty of the town assessors, within fifteen days after the completion of their annual assessment list, to apportion the valuation of the property of each and every railroad company as appears on such assessment list among the several school districts in their town, in which any portion of said property is situated, giving to each of said districts their proper portion, according to the proportion that the value of said property in each of such districts bears to the value of the whole thereof in said town.

Must be in writing and filed with town clerk.

§ 2. Such apportionment shall be in writing, and shall be signed by said assessors, or a majority of them, and shall set forth the number of each district and the amount of the valuation of the property of each railroad company, apportioned to each of said districts ; and such apportionment shall be filed with the town clerk, by said assessors or one of them, within five days after being made ; and the amount so apportioned to each district shall be the valuation of the property of each of said companies, on which all taxes against said companies in and for said districts, shall be levied and assessed until the next annual assessment and apportionment.

§ 3. In case the assessors shall neglect to make such apportionment, it shall be the duty of the supervisor of the town, on the application of the trustees or board of education of any district, or of any railroad company, to make such apportionment, in the same manner and with the like effect as if made by said assessors.

Supervisor
may appor-
tion if
assessors
neglect.

§ 4. The town clerk shall, whenever requested, furnish to the trustees or board of education of each district, a certified statement of the amounts apportioned to such district, and the name of the company to which the same relates.

Town
clerk to
certify to
trustees.

§ 5. In case any alteration shall be made in any school district, affecting the property of any railroad company, the officer making such alteration shall, at the same time, determine what change in the valuation of the said property in such district would be just, on account of the alteration of district, and the valuation shall be accordingly changed.

§ 6. This act shall take effect immediately.

CHAP. 654.

AN ACT to amend chapter five hundred and eighty-five of the Laws of eighteen hundred and sixty-five, entitled "An act to establish Cornell University, and to appropriate to it the income of the sale of public lands granted to this state by congress, on the second day of July, eighteen hundred and sixty-two, also to restrict the operation of chapter five hundred and eleven of the Laws of eighteen hundred and sixty-three."

PASSED May 13, 1872.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. Section nine of chapter five hundred and eighty-five of the Laws of eighteen hundred and sixty-five is hereby amended so as to read as follows :

To be open
to appli-
cants.

§ 9. The several departments of study in the said university shall be open to applicants for admission thereto at the lowest rates of expense consistent with its welfare and efficiency, and without distinction as to rank, class, previous occupation or locality. But, with a view to equalize its advantages to all parts of the state, the institution shall annually receive students, one from each assembly district in the state, to be selected as hereinafter provided, and shall give them instruction in any or in all the prescribed branches of study in any department of said institution, free of any tuition fee or of any incidental charges to be paid to said university, unless such incidental charges shall have been made to compensate for damages needlessly or purposely done by the students to the property of said university. The said free instruction shall, moreover, be accorded to

To receive
one stu-
dent from
each
assembly
district.

said students in consideration of their superior ability, and as a reward for superior scholarship in the academies and public schools of this state. Said students shall be selected as the legislature may, from time to time, direct, and until otherwise ordered, as follows: The school commissioner or commissioners of each county, and the board of education of each city, or those performing the duties of such a board, shall select annually the best scholar from each academy and each public school of their respective counties or cities as candidates for the university scholarship. But in no case shall any person having already entered the said university be admitted as one of such candidates. The candidates thus selected in each county or city shall meet at such place and time in the year as the school commissioner or commissioners of the county and the said boards of education of the cities, in those counties which contain cities, shall appoint; and the school commissioner or commissioners, and the said board of education, or such of them as shall attend and act, shall proceed to examine said candidates and determine which of them are the best scholars; and they shall then select therefrom to the number of one for each assembly district in said county or city, and furnish the candidate thus selected with a certificate of such selection; which certificate shall entitle said student to admission to said university, subject to the examination and approval of the faculty of said university. In making these selections, preference shall be given (where other qualifications are equal) to the sons of those who have died in the military or naval service of the United States; consideration shall be had also to the physical ability of the candidate. Whenever any student selected as above described shall have been from any cause removed from the university before the expiration of the time for which he was selected, then one of the competitors to his place in the university from his district may be elected to succeed him therein, as the school commissioner or commissioners of the county of his residence, or the board of education of the city of his residence, may direct."

How
selected.

Candidates
to be ex-
amined
and the
best
selected.

Preference
to be given
to sons of
soldiers.

When one
selected
has been
removed.

CHAP. 577.

AN ACT to amend an act entitled "An act to amend an act entitled 'An act to designate the holidays to be observed in the acceptance and payment of bills of exchange and promissory notes,'" passed April twenty-third, eighteen hundred and seventy.

PASSED May 22, 1873.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. Section one of an act entitled "An act to amend an act entitled 'An act to designate the holidays to be observed in the acceptance and payment of bills of exchange and promissory notes,'" passed April twenty-third, eighteen hundred and seventy, is hereby amended so as to read as follows :

Holidays.

§ 1. The following days, namely : The first day of January, commonly called new year's day, the twenty-second day of February, the fourth day of July, the twenty-fifth day of December, any general election day, any day appointed or recommended by the governor of this state, or the president of the United States, as a day of thanksgiving, or as a day of fasting or prayer, or other religious observance, the thirtieth day of May, to be known as decoration day, shall, for all purposes whatsoever, as regards the presenting for payment or acceptance, and of the protesting and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, made after the passage of this act, be treated and considered as the first day of the week, commonly called Sunday, and as public holidays.

§ 2. Whenever any of the holidays mentioned in the first section of this act shall fall hereafter upon Sunday, the Monday next following shall be deemed and considered as the first day of the week or Sunday, and a public holiday for all or any of the purposes aforesaid ; and all bills of exchange, checks and promissory notes which shall, with or without grace, become due and payable on Sunday, or on any of the days mentioned in the preceding section, or on any Monday kept as aforesaid as a public holiday, shall be deemed to be due and payable on the business day next succeeding the day of their maturity.

Days to be
holidays
when days
first
named
fall on
Sunday.

§ 3. All acts or parts of acts inconsistent with this act are hereby repealed, but such repeal shall not affect any act done, or proceeding or suit instituted prior to the passage of this act.

§ 4. This act shall take effect immediately.

CHAP. 421.

AN ACT to secure to children the benefits of elementary education.

PASSED May 11, 1874; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Children to be instructed at school or at home for at least 14 weeks in each year.

SECTION 1. All parents and those who have the care of children shall instruct them, or cause them to be instructed, in spelling, reading, writing, English grammar, geography and arithmetic. And every parent, guardian or other person having control and charge of any child between the ages of eight and fourteen years shall cause such child to attend some public or private day school at least fourteen weeks in each year, eight weeks at least of which attendance shall be consecutive, or to be instructed regularly at home at least fourteen weeks in each year in spelling, reading, writing, English grammar, geography and arithmetic, unless the physical or mental condition of the child is such as to render such attendance or instruction inexpedient or impracticable.

Employment of children under 14 years prohibited.

*§ 2. No child under the age of fourteen years shall be employed by any person to labor in any business whatever during the school hours of any school day of the school term of the public school in the school district or the city where such child is, unless such child shall have attended some public or private day school where instruction was given by a teacher qualified to instruct in spelling, reading, writing, geography, English grammar and arithmetic,

* As amended by sec. 1, chap. 372, Laws of 1876.

or shall have been regularly instructed at home in said branches by some person qualified to instruct in the same, at least fourteen weeks of the fifty-two weeks next preceding any and every year in which such child shall be employed, and shall, at the time of such employment, deliver to the employer a certificate in writing signed by the teacher or a school trustee of the district or of a school, and countersigned by such officer as the board of education or public instruction, by whatever name it may be known in any city, incorporated village or town, shall designate, certifying to such attendance or instruction; and any person who shall employ any child contrary to the provisions of this section shall, for each offense, forfeit and pay a penalty of fifty dollars to the treasurer or chief fiscal officer of the city, or supervisor of the town, in which such offense shall occur; the said sum or penalty, when so paid, to be added to the public school money of the school district in which the offense occurred. Penalty.

*§ 3. It shall be the duty of the trustee or trustees of every school district, or public school, or union school, or of officers appointed for that purpose by the board of education or public instruction, by whatever name it may be known, in every town and city, in the month of September and of February of each year, and at such other times as may be deemed necessary, to examine into the situation of the children employed in all manufacturing and other establishments in such school district where children are employed; and in case any town or city is not divided into school districts, it shall, for the purposes of the examination provided for in this section, be divided by the school authorities thereof into districts, and the said trustees or other officers as aforesaid notified of their respective districts on or before the first day of January of each year; and the said trustee or trustees, or other officers as aforesaid, shall ascertain whether all the provisions of this act are duly observed, and report all violations thereof to the treasurer or chief fiscal officer of said Trustees of school districts to examine for and report violations of act

* As amended by sec. 2, chap. 372, Laws of 1876.

List of
children
employed.

Children
tempo-
rarily dis-
charged
from em-
ployment
to attend
school.

Trustees to
enforce
act.

Penalties
for viola-
tions.

city, or supervisor of said town. On such examination the proprietor, superintendent or manager of said establishment shall, on demand, exhibit to said examining trustee, or other officer as aforesaid, a correct list of all children between the ages of eight and fourteen years employed in said establishment, with the said certificates of attendance on school or of instruction.

§ 4. Every parent, guardian or other person having control and charge of any child between the ages of eight and fourteen years, who has been temporarily discharged from employment in any business, in order to be afforded an opportunity to receive instruction or schooling, shall send such child to some public or private school, or shall cause such child to be regularly instructed as aforesaid at home for the period for which such child may have been so discharged, to the extent of at least fourteen weeks in all in each year, unless the physical or mental condition of the child is such as to render such an attendance or instruction inexpedient or impracticable.

* § 5. The trustee or trustees of any school district or public school, or the president of any union school, or such officer as the board of education of said city, incorporated village or town may designate, is hereby authorized and empowered to see that sections one, two, three, four and five of this act are enforced, and to report in writing all violations thereof to the treasurer or chief fiscal officer of his city, or to the supervisor of his town; any person who shall violate any provision of sections one, three and four of this act shall, on written notice of such violation from one of the school officers above named, forfeit, for the first offense, and pay to the treasurer or chief fiscal officer of the city, or to the supervisor of the town in which he resides, or such offense has occurred, the sum of one dollar, and, after such first offense, shall, for each succeeding offense in the same year, forfeit and pay to the treasurer of said city or supervisor of said town, the sum of five dollars for

each and every week, not exceeding thirteen weeks in any one year, during which he, after written notice from said school officer, shall have failed to comply with any of said provisions; the said penalties, when paid, to be added to the public school money of said school district in which the offense occurred.

Their application.

§ 6. In every case arising under this act where the parent, guardian or other person having the control of any child between the said ages of eight and fifteen* years, is unable to provide such child for said fourteen weeks with the text-book required to be furnished to enable such child to attend school for said period, and shall so state in writing to the said trustee, the said trustee shall provide said text-books for said fourteen weeks at the public school for the use of such child, and the expense of the same shall be paid by the treasurer of said city or the supervisor of said town on the certificate of the said trustee, specifying the items furnished for the use of such child.

Text-books for poor children.

†§ 7. In case any person having the control of any child, between the ages of eight and fourteen years, is unable to induce said child to attend school for the said fourteen weeks in each year, and shall so state in writing to said trustee, or said other officers appointed by the board of education or public instruction by whatever name it may be known, the said child shall, from and after the date and delivery to said trustee, or other officer as aforesaid, of said statement in writing, be deemed and dealt with as an habitual truant, and said person shall be relieved of all penalties incurred for said year after said date, under sections one, four and five of this act, as to such child.

Truant children.

‡§ 8. The board of education or public instruction, by whatever name it may be called, in such city and incorporated village, and the trustees of the school districts and union school in each town, by an

Rules concerning truants.

* So in the original.

† As amended by sec. 4, chap. 372, Laws of 1876.

‡ As amended by sec. 5, chap. 372, Laws of 1876.

Approval
of by a
justice of
supreme
court.

Copy on
school-
house.

Amend-
ments.

affirmative vote of a majority of said trustees, at a meeting or meetings to be called for this purpose, on ten days' notice in writing to each trustee, said notice to be given by the town clerk, are for each of their respective cities and towns hereby authorized and empowered and directed, on or before the first day of January, eighteen hundred and seventy-seven, to make all needful provisions, arrangements, rules, and regulations, concerning habitual truants and children between said ages of eight and fourteen years of age, who may be found wandering about the streets or public places of such city or town during the school hours of the school day of the term of the public school of said city or town, having no lawful occupation or business, and growing up in ignorance; and said provisions, arrangements, rules, and regulations shall be such as shall, in their judgment, be most conducive to the welfare of such children, and to the good order of such city or town; and shall provide suitable places for the discipline and instruction and confinement, when necessary, of such children, and may require the aid of the police of cities, or incorporated villages, and constables of towns, to enforce their said rules and regulations, provided, however, that such provisions, arrangements, rules and regulations shall not go into effect, as laws for said several cities and towns, until they shall have been approved, in writing, by a justice of the supreme court for the judicial district in which said city, incorporated village or town is situated; and, when so approved, he shall file the same with the clerk of the said city, incorporated village or town, who shall print the same, and furnish ten copies thereof to each trustee of each school district, or public or union school of said city, incorporated village or town. The said trustee shall keep one copy thereof posted in a conspicuous place in or upon each school-house in his charge during the school terms each year. In like manner the same in each city, incorporated village or town may be amended or revised, within six months after the passage of this act, and thereafter annually as the trustee or trustees of any school district or public

school, or the president of any union school, or the board of education or public instruction, or by whatever name it may be known, in any city, incorporated village or town, may determine.

§ 9. Justices of the peace, civil justices and police justices shall have jurisdiction, within their respective towns and cities, of all offenses and of all actions for penalties or fines described in this act, or that may be described in said provisions, arrangements, rules and regulations authorized by section eight of this act. All actions for fines and penalties under this act shall be brought in the name of the treasurer or chief fiscal officer of the city or supervisor of the town to whom the same is payable, but shall be brought by and under the direction of the said trustee or trustees, or said officer designated by the board of education.

Justices to have jurisdiction.

Actions for fines, etc.

§ 10. Two weeks attendance at a half-time or evening school shall, for all purposes of this act, be counted as one week at a day school.

Evening schools.

§ 11. This act shall take effect on the first day of January, eighteen hundred and seventy-five.

When act to take effect.

POWER OF UNION FREE SCHOOL DISTRICTS TO SELL OR EXCHANGE REAL ESTATE; ALSO CONCERNING REDUCTION OF NUMBER OF MEMBERS OF BOARDS OF EDUCATION.

The following powers were conferred upon boards of supervisors by subdivision 28, section 1, chap. 482, Laws of 1875.

"To authorize boards of trustees or of education in any union free school district established in conformity to the general or to any special law of this state on the application of a majority of the taxable inhabitants of the district, voting on the question at a duly called meeting, to sell or exchange real estate belonging to the district, for the purpose of improving or changing school-house sites, and to increase or diminish the number of members of such boards."

CHAP. 219

AN ACT for the relief of school districts wishing to contract with boards of education of cities, to educate their children in city schools.

PASSED May 3, 1877.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Teaching
in city
schools of
children
belonging
to an
adjoining
school dis-
trict pro-
vided for.

SECTION 1. Whenever any school district adjoining a city, by a vote of a majority of the qualified voters of such district, shall empower the trustees thereof, the said trustees shall enter into a written contract with the board of education of such city, whereby all the children of such district may be entitled to be taught in the public schools of such city, for a period of not less than twenty-eight weeks in any school year, upon filing a copy of such contract duly certified by the trustees of such school district and by the secretary of the board of education of said city, in the office of the superintendent of public instruction, such school district shall be deemed to have employed a competent teacher for such period, and shall be entitled to receive one distribution district quota each year during which such contract shall be renewed and continued.

City board
of educa-
tion to re-
port num-
ber of pu-
pils, etc.

§ 2. The board of education of any city so contracting with any school district shall report the number of persons of school age in such district, together with those resident in the city, the same as though they were actual residents of the city, and shall report for the pupils attending the city schools from such district to the superintendent of public instruction the same as though they were residents of such city.

§ 3. It shall be the duty of the superintendent of public instruction to give to school commissioners such directions as may, in his judgment, be required and proper, in relation to the reports to be made by the trustees of such districts to school commissioners.

Duties of superintendent of public instruction.

§ 4. This act shall take effect immediately.

APPENDIX.

CHAP. 413.

AN ACT to prevent frequent changes of text-books in schools.

PASSED June 5, 1877; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Text-books, designation and use of. SECTION 1. The boards of education or such bodies as perform the functions of such boards in the several cities and villages of this state, shall have power, and it shall be their duty to adopt and designate text-books to be used in the schools under their charge in their respective districts. In the other school districts in the state the text-books to be used in the schools therein shall be designated at the first annual school meeting held after the passage of this act, by a two-thirds vote of all the legal voters present and voting at such school meeting.

When adopted not to be superseded by others in five years, etc.

§ 2. When a text-book shall have been adopted for use in any of the public or common schools in this state, as provided in the first section of this act, it shall not be lawful to supersede the text-book so adopted by any other book within a period of five years from the time of such adoption, except upon a three-fourths vote of the board of education, or of such body as perform the functions of such board, where such board has made the designation, or upon a three-fourths vote of the legal voters present and voting at the annual school meeting in any other school district.

Penalty for violation of act.

§ 3. Any person or persons violating any of the provisions of this act shall be liable to a penalty of not less than fifty dollars nor more than one hun-

dred dollars for every such violation, to be sued for by any tax payer of the school district, and recovered before any justice of the peace, said fine, when collected, to be paid to the collector or treasurer for the benefit of said school district.

§ 4. This act shall take effect immediately.

CHAP. 248.

AN ACT in relation to the election of officers in certain school districts.

PASSED May 13, 1878 ; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. In all school districts in this state in which the number of children of school age exceeds three hundred, as shown by the last annual report of the trustees to the school commissioner, all district officers, except the treasurer and collector of union free school districts, shall be elected by ballot.

§ 2. Such election shall be held on the second Wednesday of October in each year, between the hours of ten o'clock in the forenoon and two o'clock in the afternoon at the principal school-house in the district or at such other suitable place as the trustees may designate. When the place of holding such election is other than at the principal school-house, the trustees shall give notice thereof, by publication of such notice at least one week before the time of holding such election, in some newspaper published in the district, or by posting the same in three conspicuous places in the district.

§ 3. The trustees or board of education, or such of them as may be present, shall act as inspectors of election, and immediately after the close of the polls shall proceed to canvass the votes and declare the result. If any such district shall have but one trustee, the district clerk shall be associated with him as inspector. If a majority of the trustees shall not be present at the time for opening the polls, those

in attendance may appoint any of the legal voters of the district present, to act as inspectors in place of the absent trustees. If none of the trustees shall be present at the time for opening the polls, the legal voters may choose three of their number to act as inspectors.

§ 4. The trustees shall, at the expense of the district, provide a suitable box in which the ballots shall be deposited as they are received. Such ballots shall contain the names of the persons voted for, and shall designate the office for which each one is voted. The ballots may be either written or printed, or partly written and partly printed.

§ 5. The district clerk, or clerk of the board of education, as the case may be, shall attend the election and record in a book, to be provided for that purpose, the name of each elector as he deposits his ballot. When the polls shall have been closed the inspectors shall first count the ballots to see if they tally with the number of names recorded by the clerk. If they exceed that number enough ballots shall be withdrawn to make them correspond. Any clerk who shall neglect or refuse to record the name of a person whose ballot is received by the inspectors, shall be liable to a fine of twenty-five dollars to be sued for by the supervisor of the town. If the district clerk or clerk of the board of education shall be absent, or shall be unable or shall refuse to act, the trustees, inspectors of election, or board of education shall appoint some person to act in his place.

§ 6. If any person offering to vote at any such election shall be challenged as unqualified by any legal voter, the chairman of the inspectors shall require the person so offering the vote to make the following declaration: "I do declare and affirm that I am an actual resident of this school district, and that I am legally qualified to vote at this election." And every person making such declaration shall be permitted to vote; but if any person shall refuse to make such declaration, his ballot shall not be received by the inspectors. Any person who upon being so challenged shall willfully make a false dec-

laration of his right to vote at such election, shall be deemed guilty of a misdemeanor and punished by imprisonment in the county jail for not less than six months nor more than one year. Any person who shall vote at such election, not being duly qualified, shall, though not challenged, forfeit the sum of ten dollars, to be sued for by the supervisor of the town for the benefit of the school or schools of the district.

§ 7. All disputes concerning the validity of any such election, or of any votes cast thereat, or of any of the acts of the inspectors or clerk, shall be referred to the superintendent of public instruction, whose decision in the matter shall be final. Such superintendent may, in his discretion, order a new election in any district.

§ 8. The persons having the highest number of votes, respectively, for the several offices shall be declared elected, and the clerk shall record the declaration of the inspectors. In case two persons shall have an equal number of votes for the same office, the inspectors of election shall immediately choose one of such persons. If the inspectors cannot agree, the clerk shall decide the matter.

§ 9. The annual meeting in the several districts shall be held as now provided by law for the purpose of transacting all business except the election of officers.

§ 10. This act shall not apply to cities, or to districts organized under special acts of the legislature.

FORMS.

FORM of Warrant for the Collection of a District Tax.

To the Collector of School District number , in the town of ,
county of :

You are hereby commanded to *receive* from each of the taxable inhabitants and corporations named in the foregoing list, and of the owners of the real estate described therein, the several sums mentioned in the last column of the said list, opposite to the persons and corporations so named, and to the several tracts of land so described, or so much thereof as may be voluntarily paid to you for two successive weeks after the delivery to you of this warrant, together with one cent on each dollar thereof for your fees; and after the expiration of the time above mentioned, to proceed forthwith to *collect* the residue of the sums not so paid in as aforesaid, with five cents on each dollar thereof for your fees; and in case any person upon whom such tax is imposed shall neglect or refuse to pay the same, you are to levy the same by distress and sale of the goods and chattels of the person or corporation so taxed, in the same manner as on warrants issued by the board of supervisors to the collectors of taxes in towns; and you are to make a return of this warrant within *thirty* days after the delivery thereof to you; and if any tax on the real estate of a non-resident mentioned in the said list shall be unpaid at the time when you are required to return this warrant, you are to deliver to the trustees of the said district an account thereof, according to law. All moneys received or collected by you by virtue of this warrant, you are to keep safely, and to pay out the same on the written order of a majority of the trustees.

Given under our hands this day of , in the year one thousand
eight hundred and seventy- .

A. B. ,
C. D. , } *Trustees.*
E. F. }

NOTE.—Collectors are now required by law to execute a bond before receiving the first warrant for collection of a tax. (See section 83, title 7.)

FORM of Bond to be given by District Collector for the faithful Performance of his official duties.

Know all men by these presents, that we, A. B., C. D. and R. S. (the collector and his sureties), are held and firmly bound to E. F., G. H. and L. M., trustees of school district number , in the town of , county of , in the sum of (here insert the amount of bail fixed by the district meeting or by the trustees), to be paid to the said E. F., G. H. and L. M., trustees as aforesaid, or to the survivor or survivors of them, or their successors; to which

payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, firmly by these presents. Sealed with our seals and dated this day of , 187 .

Whereas, the above bounden A. B. has been chosen (or appointed) collector of the above-mentioned school district number , in the town of , in conformity to the statutes relating to common schools; now, therefore, the condition of this obligation is such that if the said A. B. shall well and truly collect and properly account for all moneys received by him as such collector, and shall, in all respects, duly and faithfully execute all the duties of his office as collector of such district, then this obligation shall be void, otherwise to be in full force and effect.

A. B., [L. s.]
C. D., [L. s.]
R. S. [L. s.]

Signed, sealed and delivered }
in the presence of }

CIRCULAR TO TRUSTEES.

The following circular to assessors, issued from the comptroller's office, is here presented to trustees of school districts, as it answers many questions that come before them in the discharge of their duties :

All property not specially exempt should be assessed at its true and full value.

Bank stock should be assessed to the individual stockholders in the town or ward where the bank is situated, at its *true* value, including any surplus ; and in no case should it be assessed below *par*, without proper evidence that its value is reduced below par by losses actually charged over on the books. No deduction should be allowed the shareholders on account of debts, nor should any deduction be allowed for the proportionate interest of a shareholder in the stock or bonds of the United States, held by the bank. The only deduction provided for is a proportionate part of the real estate of the bank, which is assessed against the corporation. Individual bankers should be assessed in the same way as shareholders in incorporated banks.

Persons engaged in banking or brokerage, not organized under the Banking Laws of the State, and who issue no circulation, should be assessed the same as other individuals, and are entitled to the like deduction from the assessment for debts and investment in United States stocks.

The franchises and privileges granted by the legislature to Savings Banks, or Institutions for Savings, are declared to be personal property, and liable to taxation as such in the town or ward where located, to an amount not exceeding the gross sum of their surplus, earned and in possession of the bank. These institutions should therefore be assessed for the amount of their surplus funds, after deducting such amount thereof as may be invested in the stocks of the United States.

Telegraph poles and wires must be regarded as personal property, and as such, are assessable at the *home* office of the company.

TAXATION OF LANDS.

All lands in any town or ward, occupied by the owner, *must* be assessed to such owner.

Lands occupied by a person *other* than the owner may be assessed to the owner or occupant, or as "land of non-residents."

When the line between two wards, towns or counties divides a farm or lot the same must be taxed, if occupied, in the town or ward where the occupant resides ; but if unoccupied, each part must be assessed in the town or ward where the same lies.

Lands wholly unoccupied, owned by a person residing within the town or ward where the same are situated, must be assessed to such owner.

Unoccupied lands, not owned by a person residing in the town or ward where the same are situated, *must* be assessed in a part of the assessment roll separate from the other assessments, under the heading, "lands of non-residents." If such lands be a part of a tract or patent which is subdivided into lots, *each lot* must be designated by its number alone, *without the name of the owner*, beginning with the lowest number and proceeding in numerical order to the highest. Where parts of lots are separately assessed, each part must be definitely located, either by a survey, or complete boundaries thereof. Where such lands are not in any tract or patent, or numbered lot, such fact must be stated on the assessment roll, and each parcel thereof be fully described, the same as *parts* of numbered lots. Each lot or subdivision must be separately assessed, unless one property, not divisible (in which case the fact should be stated), and the quantity of land in each lot, subdivision or parcel, must, in all cases, be entered on the assessment roll.

THE FOLLOWING IS THE LAW RELATING TO EXEMPTIONS FROM TAXATION.

1. All property, real or personal, exempted from taxation by the Constitution of this State, or under the Constitution of the United States.
2. All lands belonging to this State or the United States.
3. Every building erected for the use of a college, incorporated academy or other seminary of learning; every building for public worship; every school-house, court-house and jail, and the several lots whereon such buildings are situated, and the furniture belonging to each of them.
4. Every poor-house, alms-house, house of industry, and every house belonging to a company incorporated for the reformation of offenders, or to improve the moral condition of seamen, and the real and personal property used for such purposes belonging to or connected with the same.
5. The real and personal property of every public library.
6. All stocks owned by the State, or by literary or charitable institutions.
7. The personal estate of every incorporated company not made liable to taxation on its capital under Chap. 13, title 4, first part Revised Statutes.
8. The personal property of every minister of the gospel, or priest, of any denomination; and the real estate of such minister or priest, when occupied by him, provided such real and personal estate do not exceed in value one thousand five hundred dollars. And lands owned and permanently occupied by agricultural societies.
9. All property exempted by law from execution.

If the real and personal estate, or either of them, of any minister or priest exceed the value of one thousand five hundred dollars, that sum shall be deducted from the valuation of his property, and the residue shall be liable to taxation.

Lands sold by the State, though not granted or conveyed, shall be assessed in the same manner as if actually conveyed.

The owner or holder of stock in any incorporated company, liable to taxation on its capital, shall not be taxed as an individual for such stock.

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VALUATION OF PROPERTY:

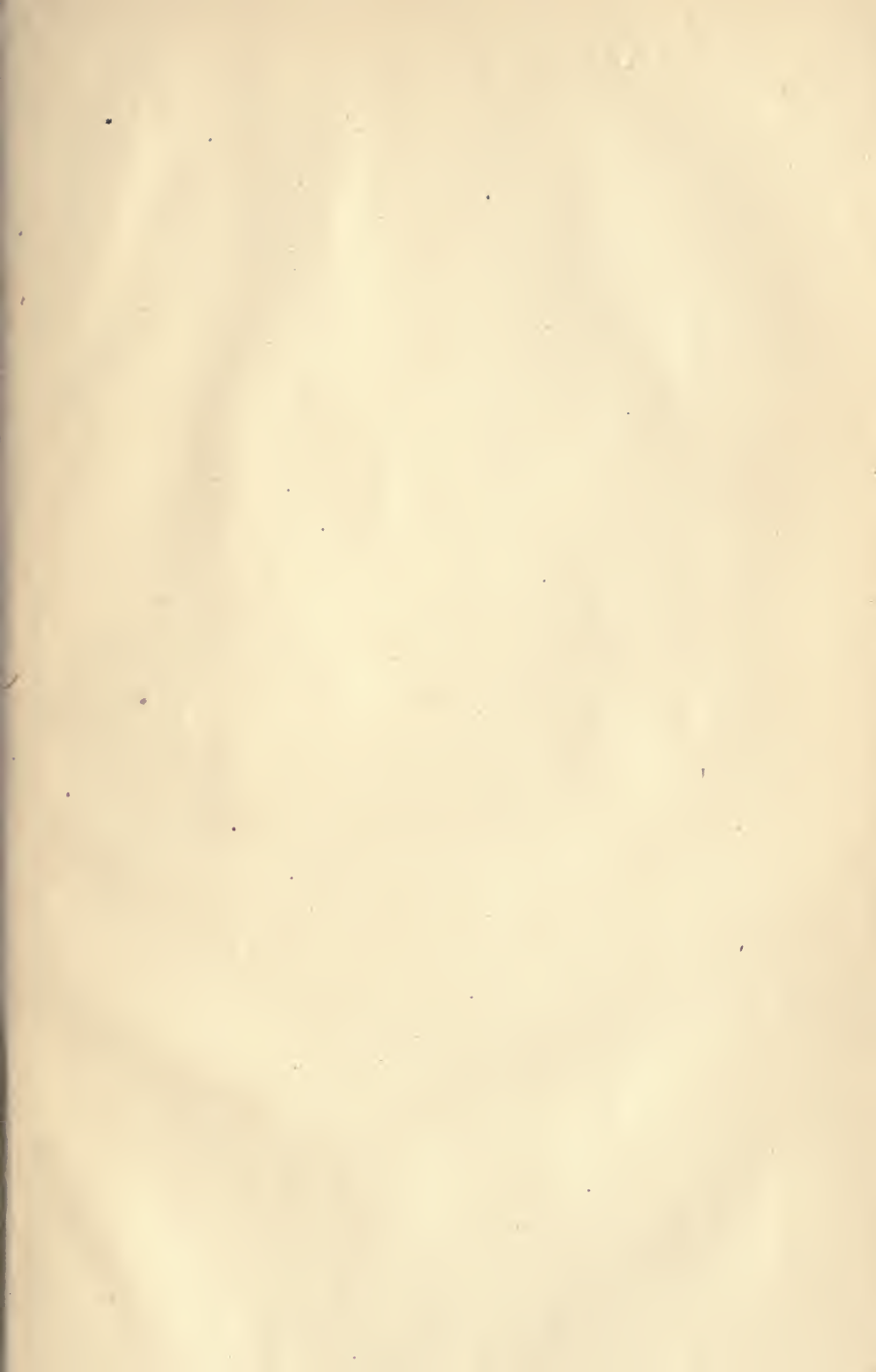
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